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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

* * * * *

UNITED STATES OF AMERICA

v.

IMRAN ALRAI,

Defendant.

* * * * *

No. 1:18-cr-192-JL
December 4, 2019
9:10 a.m.

TRANSCRIPT OF BENCH TRIAL
DAY THREE - MORNING SESSION

BEFORE THE HONORABLE JOSEPH N. LAPLANTE

APPEARANCES:

For the Government: John S. Davis, AUSA
Matthew Hunter, AUSA
Cam T. Le, AUSA
United States Attorney's Office

For the Defendant: Timothy M. Harrington, Esq.
Timothy C. Ayer, Esq.
Shaheen & Gordon PA

Court Reporter: Brenda K. Hancock, RMR, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, NH 03301
(603) 225-1454

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I N D E X

WITNESSES: _____ DIRECT _____ CROSS _____ REDIRECT _____ RECROSS _____

DEAN RIVIERA

By Ms. Le

40

By Mr. Harrington

3

PATRICIA LATIMORE

By Mr. Davis

52

E X H I B I T S

No. _____ In Evid.

Govt's

714.....50
605.....59
606.....63
607.....66
608.....70
609.....71
610.....74
613.....80
401.....92
617.....112
300a.....113
301a.....113
301b.....114
304a.....114
635.....119
628.....126
630.....127
645.....129
644.....131

P R O C E E D I N G S

THE CLERK: All rise for the Honorable Court.

THE COURT: Good morning.

THE CLERK: The Court has before it for consideration this morning day three of the bench trial in United States of America versus Imran Alrai, Criminal Number 18-cr-192-01-JL.

THE COURT: All right. All right, Mr. Riviera, you are still under oath.

THE WITNESS: Yes.

THE COURT: You may proceed. Cross-examination.

MR. HARRINGTON: Thank you, Judge.

DEAN RIVIERA, having been previously duly sworn, was further examined and testified as follows:

CROSS-EXAMINATION

BY MR. HARRINGTON:

Q. Good morning, Mr. Riviera. And am I pronouncing your name correctly, sir? Is it Riviera?

A. Riviera, like the French Riviera.

Q. All right. So, I want to ask you a few questions about what you testified to yesterday. Now, would you agree with this, that a lot of the information that you have provided to the judge for his consideration is based on your opinion?

A. Define "a lot." We discussed a lot yesterday.

Q. Sure. Would you agree with this proposition in general terms: that the judge is going to have to rely on your

1 personal opinion for parts of your testimony? Would that be
2 fair to say?

3 A. Correct, as well as factual.

4 Q. Sure. And as part of that you are relying on your opinion
5 for those pieces that he has to rely on just your opinion; and
6 let's maybe separate it out, we'll say your opinion versus
7 things that might be supported by documents, for example,
8 right? In regard to that, obviously, that has to be
9 information that the judge can trust and find trustworthy, able
10 to rely on it. Would that be fair to say?

11 A. Correct.

12 Q. Okay. So, I want to ask you --

13 MR. HARRINGTON: If we could pull this up.

14 Q. So, one of the things that you had indicated to the judge
15 yesterday was in regard to Windows XP. Do you remember talking
16 to the judge about that?

17 A. Correct.

18 Q. And one of the things you had indicated is that, when you
19 came into Robert Allen, Windows XP was outdated, correct?

20 A. Correct.

21 Q. And that it was no longer being serviced by Windows,
22 right? Or Microsoft, I should say.

23 A. Yes.

24 Q. Correct?

25 A. No longer being supported by Windows.

1 Q. And that would mean, for example, Microsoft wouldn't be
2 providing patches and security updates, things of that nature,
3 right?

4 A. Correct.

5 Q. And in that regard I think you had said to the judge that
6 Windows XP had been outdated by some 25 years, I think you had
7 indicated was the number; is that correct?

8 A. Correct. It was originally introduced in 1985, and
9 Microsoft sunsetted it in 2009, officially sunsetted XP in
10 2009.

11 Q. And we're confirming this is Windows XP, correct?

12 A. Windows XP.

13 MR. HARRINGTON: If you could bring up --

14 MS. LE: Objection, your Honor. May we approach to
15 address this?

16 THE COURT: You want to address it outside of his
17 hearing?

18 MS. LE: Yes.

19 THE COURT: All right. Then, you may approach.

20 MS. LE: Thank you.

21 (SIDEBAR CONFERENCE AS FOLLOWS):

22 THE COURT: Okay.

23 MS. LE: Your Honor, I'm objecting to the use of
24 Google.

25 THE COURT: He can hear you.

1 MS. LE: Okay. You might want to excuse him, because
2 I don't have an indoor voice.

3 THE COURT: I get it.

4 MS. LE: I would object to this extrinsic use of
5 Google searches to cross-examine this witness, your Honor. If
6 he wants to impeach the witness, he can put together whatever
7 and put it to him so we're not pulling up Google to do
8 searches. This is inappropriate use of extrinsic evidence, if
9 it's even evidence at all for the purposes of this hearing.

10 THE COURT: Are you attempting to introduce any of
11 this?

12 MR. HARRINGTON: No.

13 MS. LE: Then it shouldn't be on the screen.

14 MR. HARRINGTON: Well, it's not being introduced as an
15 exhibit, Judge; it's being introduced to question the witness
16 about it and if the testimony he gave he was accurate.

17 THE COURT: If you're going to put it in front of him
18 to cross-examine him about it, I don't have a problem with it
19 being on the screen, because if it's on the screen you can all
20 see it, you can see what he's doing.

21 MS. LE: Right. But if this was a jury trial, your
22 Honor, it would not be appropriate for the trier of fact to see
23 what is on there.

24 THE COURT: You're absolutely right. That said --

25 MR. HARRINGTON: One of the other things I'll be able

1 to do as well, Judge, is I have an expert in IT that's going to
2 be testifying. It's going to come in that way as well.

3 THE COURT: So, you are going to put it in?

4 MR. HARRINGTON: Given that he's already testified to
5 it, I'm going to have my expert comment on it.

6 THE COURT: Comment on it. But you're not going to
7 try to introduce the actual, like, Google pages? I don't
8 understand -- anyway, the bottom line is here, respectfully, I
9 don't think it's inappropriate to confront the witness with
10 almost anything. It's not necessarily impeachment. It's just
11 more questioning. It's testing. I don't have a problem with
12 it. I don't think there is a rule of evidence that prohibits
13 it, unless you're going to introduce it as evidence. But
14 having him react to things that happen to come from the
15 internet or some other third-party source, I don't think that's
16 improper impeachment, and I'm not aware of any law that it is.

17 So, I guess I'm overruling the objection. That said,
18 if this turns into shoveling evidence into the record, which I
19 think is what you're really most concerned about, I'll police
20 it myself and I'll raise it, and you shouldn't feel constrained
21 to object again if you think something is going too far. I
22 don't have a problem with that either.

23 But I think witnesses, fact and expert, can be
24 confronted with just about anything, and there's more than one
25 way to impeach, and it's not always prior inconsistent

1 statements or parts of an expert witness's files. You can
2 confront them with almost anything. So, I'm going to allow it.
3 So, overruled.

4 (END OF SIDEBAR CONFERENCE)

5 THE COURT: Let me say this: The objection is
6 sustained to the extent -- and this will be going forward. The
7 objection is sustained to the extent they are trying to
8 introduce this as evidence, and that includes doing it in a
9 backdoor way. So, I would ask you to restrict yourself to the
10 type of impeachment that you're trying to conduct here. It's
11 not impeachment by prior inconsistent statement, but it may be
12 simply to confirm with the witness information that you think
13 contradicts his opinions or his testimony.

14 MR. HARRINGTON: Thank you, Judge.

15 THE COURT: Okay.

16 BY MR. HARRINGTON:

17 Q. And do you see that on your screen?

18 A. Yes.

19 MR. HARRINGTON: Charli, it's not coming up on this
20 screen.

21 THE COURT: It's coming up on the Court's screen.

22 How about opposing counsel? Are you getting it?

23 MS. LE: Yes, your Honor.

24 MR. HARRINGTON: I think it was just the power wasn't
25 on, Judge. There we go.

1 Q. And while we've been trying to get this up, have you had a
2 chance to take a look at that?

3 A. Yes.

4 Q. Okay. And this talks about the support for Windows XP
5 ending, correct?

6 A. That's what it says.

7 Q. And it talks about after 12 years support for Windows XP
8 ended on April 8th of 2014, correct?

9 A. That's what it says.

10 Q. Okay. And you had indicated that you started at Robert
11 Allen in -- I think you said was it mid-November of 2013?

12 A. Late November.

13 Q. Late November?

14 A. Yeah. November 20th.

15 Q. November 20th of 2013?

16 A. Correct.

17 Q. So, according to this that you're looking at, the Windows
18 XP would have still been supported by Microsoft until April 8th
19 of 2014, several months, five, in fact, a little over five,
20 while you were the CIO at Robert Allen, correct?

21 A. That's what it says. Can I clarify?

22 THE COURT: Of course.

23 A. When Windows came out with their Windows product, it was
24 introduced in 1985.

25 MR. HARRINGTON: Well, this is about Windows XP, your

1 Honor, not about the introduction. If he has a comment about
2 Windows XP, I think that's appropriate, but if he just wants to
3 talk about Windows, that's not my questioning. I think that's
4 beyond the scope of clarification.

5 THE COURT: I disagree. Go ahead.

6 THE WITNESS: Continue?

7 THE COURT: Yes.

8 A. Since the introduction in 1985, it went through several
9 versions, the latest version in 2009. Microsoft came out and
10 officially announced in 2009 that they were officially no
11 longer supporting it. What had happened is the user
12 community --

13 THE COURT: Rebelled.

14 A. -- rebelled.

15 THE COURT: Yeah, I remember.

16 A. They rebelled and said too many corporate companies
17 already have XP installed, so Microsoft came back and
18 created -- or provided an extension until the date of April
19 8th, 2014 to allow companies to migrate -- you know, upgrade.
20 But their official announcement was in 2009.

21 THE COURT: And that was XP.

22 THE WITNESS: That was XP, correct.

23 THE COURT: The only really antiquated, out-of-date
24 institutions like the Federal Court system were using XP, if I
25 remember correctly.

1 BY MR. HARRINGTON:

2 Q. You would agree with me that time frame that we're talking
3 about, if we're talking about Windows XP, if you look here, and
4 I'm showing it says October 25th, 2001, that Windows XP was
5 released to manufacturing on August 24th of 2001, and then
6 broadly released to the retail just shortly thereafter, on
7 October 25th. It talks about development beginning in the late
8 '90s, but it talks about released to manufacturing August 24th,
9 2001. That's the release date for Windows XP, correct?

10 A. That's what it says.

11 Q. Okay. And that's not 25 years, is it?

12 A. I think you have to take a look at this from, you know,
13 the evolution of Windows. Windows went through a series of
14 version controls with different names, whether it's NT or XP or
15 others. So, the final XP is the final foundation of the
16 product as they built it.

17 Q. Okay. And what you had said in your testimony was that,
18 when you arrived at Robert Allen in late November of 2013, that
19 Windows XP was outdated by 25 years.

20 A. I was referring to since the inception.

21 Q. But Windows XP had only been released since 2001, right?

22 A. That's the commencement of that named version name.

23 Q. Okay.

24 A. But it's built upon the foundation of Windows.

25 Q. Understood.

1 A. Right?

2 Q. Understood.

3 A. Are we splitting hairs here because of the different
4 version control names?

5 Q. I'm not splitting hairs, Mr. Riviera. I'm talking about
6 the specific testimony relative to Windows XP.

7 THE COURT: I understand your point you're trying to
8 establish. Let me just say this, one of those rare times in
9 the trier of fact will share its impression. If you're trying
10 to draw the distinction between XP and prior versions between
11 12 years and 25 years, point taken. I think the witness did
12 explain what he meant by it. But if you're trying to establish
13 that this software wasn't completely outdated under your
14 client's supervision, I don't take that inference. I think it
15 was completely outdated, and the idea that a company like that
16 was still utilizing it, do I think it has much to do with
17 proving a wire fraud case? No. Or any of this? No. But the
18 prosecution was going to great lengths yesterday trying to show
19 that the defendant was underperforming. It goes to that issue.
20 I think it probably shows that, but I don't think it does much
21 in the way of satisfying its burden of proof. But it was old
22 software, no question about that.

23 MR. HARRINGTON: I'm not disputing that. And the only
24 other question, Judge, since we're talking about that, is
25 relative to the questioning about whether updates were

1 available, which I think Mr. Riviera agrees that updates were
2 available until April 8th of 2018, which -- excuse me -- 2014.

3 THE COURT: Yeah, '14.

4 MR. HARRINGTON: Which was after he arrived and
5 security and patches and all of that was updated, which, I will
6 follow up with the question, but I think it's obvious from the
7 evidence it was after my client left.

8 THE COURT: It was possible to use the software, sure,
9 up till and through the time he left. I'll just make one more
10 point. This might have been what AUSA Le was trying to tell me
11 at sidebar and I didn't listen carefully enough. In terms of
12 making a record here, you're bringing up, quote, unquote, the
13 internet on the screen. It isn't as if there's going to be a
14 record of what you showed the witness here except to the extent
15 you get him to adopt what you say. So, I would just ask that,
16 to the extent we can make a good record while we're using --
17 just bringing up the internet in the courtroom, let's do that.
18 All right?

19 MR. HARRINGTON: Understood, Judge. Yeah.

20 THE COURT: Okay.

21 BY MR. HARRINGTON:

22 Q. Mr. Riviera, I want to move on to some other topics at
23 this point. You had talked about the telephony contract. Do
24 you recall your testimony?

25 A. Yes.

1 Q. And one of the things that you indicated in regard to the
2 telephony contract was that there were problems with the phone,
3 correct?

4 A. Correct.

5 Q. And part of that problem was relative to the bandwidth,
6 correct?

7 A. Correct.

8 Q. And in regard to that, you had basically indicated what
9 the troubles were that you had specifically, yourself, noticed,
10 which I think you even pulled some of the terms to explain them
11 to us in the contract, which was latency, jitter and packet
12 loss, right?

13 A. Correct.

14 Q. And I'm going to break that down a little bit so that
15 we're all kind of back and refreshed and we're on the same
16 page. The packet loss might be, if you don't have appropriate
17 bandwidth on the phones, result in low-quality audio or dropped
18 calls, correct?

19 A. Correct.

20 Q. And that's one of the things you indicated that you had
21 noticed?

22 A. Correct.

23 Q. You also indicated that relative to -- if you don't have
24 the appropriate bandwidth relative to jitter, again, might
25 result in low-quality audio, correct?

1 A. Correct.

2 Q. And then you had talked about latency. Again, if you
3 don't have appropriate bandwidth it could result in choppy
4 calls, which I think is what you had talked about where you
5 might miss words like you're missing stuff in the middle of a
6 conversation. Is that correct?

7 A. Correct.

8 Q. And you do agree with me that in the contract, because you
9 indicated you reviewed the contracts, that in regard to that
10 the DigitalNet contract specifically said that you, the client,
11 Robert Allen, need to contact your internet service provider to
12 ensure your bandwidth meets the minimum requirements for your
13 needs. That's specifically in the contract, right?

14 A. Correct.

15 Q. And it goes on to say in that contract, which has already
16 been admitted as an exhibit, we're on page 7, that if the
17 network had insufficient hardware or the ISP delivers
18 poor-quality bandwidth, the following might occur, and then it
19 talks about latency, jitter and packet loss, correct?

20 A. In my recollection?

21 Q. Yeah.

22 A. Because it's not on the screen.

23 Q. I will put it on the screen so you can see it, okay? I'm
24 putting on page 7 of the contract.

25 MS. LE: What exhibit number, Counsel?

1 MR. HARRINGTON: Oh, I think that was page 7. So, it
2 was the Robert Allen telephony system contract.

3 MS. LE: Is that Exhibit 306, Counsel?

4 MR. HARRINGTON: Let me see. I think that is. It is.
5 That's 306.

6 MS. LE: What page are we referring to?

7 MR. HARRINGTON: Page 7 of the contract.

8 MS. LE: Which is what Bates number? I'm sorry.

9 MR. HARRINGTON: 18R148_ROB-00201.

10 MS. LE: Thank you.

11 Q. And let me kind of zoom in on that a little bit. Can you
12 read that okay, or should I kind of get that a little bit
13 further? Does that work for you?

14 A. That's good.

15 Q. Okay. So, in regard to that, where it says "Network
16 Quality," I've highlighted a section. It says, "If your
17 network has insufficient hardware, or your ISP delivered poor
18 quality bandwidth the following issues may occur," and it goes
19 through those issues, correct?

20 A. Yes.

21 Q. And you would agree with me that the contract specifically
22 says up at the top, and you'll see and I'll point to this
23 section here, it specifically says that, "Please contact your
24 internet service provider to ensure your bandwidth meets the
25 minimum requirements for your needs." Correct?

1 A. Correct.

2 Q. So, that puts the obligation onto Robert Allen to ensure
3 that they have appropriate bandwidth, correct?

4 A. Correct. There's a clarification, though.

5 THE COURT: Go ahead.

6 A. That clarification, when I saw that, and I observed not
7 only being on the phone myself and hearing the latency or
8 choppy phone calls, I had many people in the company say,
9 "Dean, what's wrong with the phones? Can we fix the phones?"
10 Well, I knew, based on the common denominator, the internet
11 bandwidth was an issue, so we did reach out to our ISP. So,
12 that process did take place.

13 THE COURT: Let me give you a general instruction
14 here. What you just said there is totally appropriate. All
15 right? Answer the question yes or no, if it's a yes-or-no
16 question, which you've been doing, and whenever you feel the
17 need to explain your answer to make your answer clearer, you
18 can do that. What you shouldn't get into is thinking that
19 you're on someone's team here.

20 THE WITNESS: No.

21 THE COURT: I know you don't. Let me just finish for
22 the record. You're not on the prosecution's team, you're not
23 on Robert Allen Group's team. You're on my team. Help me find
24 out what happened here. So, if you need to clarify the answer,
25 you can always do it, but you don't need to take an opportunity

1 to push a different agenda. Do you follow me?

2 THE WITNESS: Yes, sir.

3 THE COURT: Go ahead.

4 BY MR. HARRINGTON:

5 Q. So, let me move on to a different subject, okay,
6 Mr. Riviera? It's my understanding that you started in, I
7 think you said -- was it November 20th of 2013, correct?

8 A. Correct.

9 Q. And then you would agree with me on December 12th of 2013
10 you had made your referral to Mr. Cioffi that they should
11 consider or consult with the Legal Department or Legal; is that
12 right?

13 A. Correct.

14 Q. So, that is what, about three weeks you had been at Robert
15 Allen when you had recommended that Mr. Cioffi consider taking
16 legal action relative to DigitalNet?

17 A. Correct.

18 Q. Now, I want to talk to you about kind of time frame, if
19 you will. Would you agree with me that during this period of
20 time after you started you were kind of starting to learn new
21 information, correct?

22 A. Yes.

23 Q. And one of the things that you had learned about was that
24 DigitalNet had not been provided some information that was
25 needed, because work hadn't been getting done and Robert Allen

1 had needed to provide information to DigitalNet and it hadn't,
2 correct?

3 A. Can you provide some specificity?

4 Q. I can. Do you recall that, though?

5 A. I recall the conversation, yes, but --

6 Q. Okay. And, in fact, you spoke with I believe it was
7 Mr. Courtois. You had actually sent him an email about it,
8 correct?

9 A. Correct.

10 Q. And one of the things that you wanted to know was with
11 regard to the website whether scheduled payments had been made,
12 correct?

13 A. Correct.

14 Q. And one of the things that you wanted to know was, and
15 this was to Ray Courtois -- and if you want me to show you the
16 email if that would be more helpful for you to remember --

17 A. Yes, okay.

18 MR. HARRINGTON: So, if I may approach the witness,
19 your Honor.

20 THE COURT: You may approach throughout your
21 examination.

22 MS. LE: Your Honor, may I see the --

23 MR. HARRINGTON: I apologize. Yeah. Let me show it
24 to you.

25 THE COURT: Go ahead.

1 MS. LE: I think this was already admitted, right?

2 MR. HARRINGTON: Yes.

3 MS. LE: So, you can just pull it up on the screen, if
4 you want to do that, so we can all see the same --

5 MR. HARRINGTON: I will put it on the screen.

6 THE COURT: Proceed.

7 Q. So, showing you what's been marked as Defendant's Exhibit
8 X-1, and you can review as much of the document as you want,
9 Mr. Riviera, but this is the section that I'm interested in,
10 number one one?

11 A. Okay.

12 Q. If you want, why don't you take a minute, read that to
13 yourself, and then tell me when you're done.

14 A. (Witness read document). Okay.

15 Q. So, one of the things that you had talked to Mr. Courtois
16 about -- and am I pronouncing his name correctly?

17 A. Courtois.

18 Q. Courtois. Thank you -- Mr. Courtois about was obviously
19 the money that had been paid to DigitalNet so far, correct?

20 A. Correct.

21 Q. And the question that you had had for them is, basically,
22 "Do you know if we had been paying them the \$40,000 basically a
23 month for the past two to three months, although they had not
24 had the specs to get started on the project?" Right?

25 A. Yes.

1 Q. And so, you would agree with me that the specs to get
2 started on the project, what that was was information that
3 Robert Allen was supposed to give to DigitalNet so that they
4 could work on the project, right?

5 A. Yes.

6 Q. And you would agree with me that Mr. Courtois answered
7 your question with a little bit more detail and also indicated
8 that they had provided -- or excuse me -- that DigitalNet were
9 given licenses, and they were doing as much as possible until
10 they were able to provide what they called a wire frame,
11 correct, which was provided in October 28th, Mr. Courtois
12 indicates? Correct?

13 A. Correct.

14 Q. Now, there was other information, and I'll go to that now,
15 that DigitalNet had requested, and I guess I would want to
16 preface this also by saying you would agree with me, and I'm
17 not sure if you know the time frame, were you aware that Robert
18 Allen had been without a chief information officer since
19 mid-September, before you came onboard?

20 A. I knew that there was a gap, but I was not aware of the
21 departure.

22 Q. So, you knew there was a period of time where there was
23 not a CIO involved?

24 A. Correct.

25 MR. HARRINGTON: I apologize, Judge. I just need one

1 moment.

2 (Pause)

3 Q. Now, you had talked about some of the information that had
4 been -- or communications that had gone back and forth between
5 you, Mr. Courtois and Anwaar Hussein, correct?

6 A. Correct.

7 Q. You had also talked about some of the information that had
8 gone back and forth between you and Mohammad, correct?

9 A. Correct.

10 Q. And also you talked about information that had gone back
11 and forth between you and Mac Chaudhary, correct?

12 A. Correct.

13 Q. So, I want to show you what's been marked as Exhibit 2,
14 excuse me, Exhibit X-2, and I'm showing you page 1. I'm going
15 to zoom out a little bit, and I want to go to this section here
16 first. This is an email from DigitalNet support, correct?

17 A. Correct.

18 Q. And it's sent on December 4th, and it's sent to you,
19 Mr. Courtois, and Bob Powers?

20 A. Correct.

21 Q. And remind the Court, if you will, who Bob Powers was.

22 A. Bob Powers was our infrastructure/data center/operations
23 guy.

24 Q. And one of the things that is indicated here is, "Attached
25 to this email you'll find another detailed project report with

1 progress to date." Correct?

2 A. Correct.

3 Q. Down in this section the email says, "For the sake of
4 clarity and getting things moving, the following information is
5 requested as soon as possible. If the information is not
6 readily available, please provide the expected date so we can
7 update the project plan. Please understand that this
8 information is subject to change based on Robert Allen's
9 requirements and will ask for further information as required
10 to complete the tasks." You see that, correct?

11 A. Correct.

12 Q. And attached to this is a kind of laundry list of things
13 that is being asked for, in particular, ten specific items,
14 correct? You recall this email?

15 A. Yes.

16 Q. And so, they asked for a copy of SQL database, correct?

17 A. Correct.

18 Q. Access to the current net environment or .net environment,
19 and they indicate they have limited access, and they are
20 experiencing issues with connectivity, correct?

21 A. Correct.

22 Q. They ask for digital assets for the new website, saying
23 they've only received a final wire frame document on November
24 11 and functional specs, and they have been working with what
25 they have, but more information is needed, correct?

1 A. Correct.

2 Q. They also talk specifically about website design, saying
3 standard and responsive. Without this critical information,
4 not a whole lot can be done or accomplished on the front end to
5 show marketing and other stakeholders. Correct?

6 A. Correct.

7 Q. And, again, this is on December 4th, correct --

8 A. Correct.

9 Q. -- of 2013? Okay.

10 MR. HARRINGTON: Page 2 of that exhibit, Counsel.

11 Q. They further go on to ask for additional information,
12 color search requirements, and down at the end here they
13 indicate, "This could potentially have a negative impact
14 overall project timeline, as this was added after the fact."
15 Right?

16 A. Correct.

17 Q. They go on to ask for stuff relative to the internal ERP
18 business logic and system processing, asking to provide
19 information for multiple different reasons. You see that
20 highlighted, number 6, and it has many different subparts,
21 correct?

22 A. Correct.

23 THE COURT: What's the date on this email, again?

24 MR. HARRINGTON: It is December 4th, 2013, Judge.

25 THE COURT: Thank you.

1 Q. Additionally, you were asked here, "We've requested
2 information a number of the above processes" -- excuse me. "We
3 have requested information on a number of above processes in
4 the past and are still waiting for a response." Correct?

5 A. Correct.

6 Q. It also asks for project field mapping, here in number 8,
7 for the database synchronization. "This will help synchronize
8 and update product and other relevant information on the new
9 Magento website." Going on to the last page, number 9,
10 "Magento extensions, the functional specs documents outline a
11 number of extensions. There are some that require purchasing.
12 When will Robert Allen have those available to us for
13 integration," they ask, correct?

14 A. Correct.

15 Q. And then they ask for number 10, security and
16 compliance-related directives and requirements for the new
17 website.

18 And then I want to point down to this section here.
19 They indicate -- because you had just started a couple of weeks
20 earlier, right?

21 A. Correct.

22 Q. And they say, "With your arrival, we are hopeful things
23 will pick up pace again." Would you say that that suggests
24 that things had been lacking as far as communication between
25 Robert Allen and DigitalNet prior to your arrival?

1 A. That would be my understanding reading that.

2 Q. They go on to say, "We still have approximately three
3 months, and there's no reason we can't accomplish this project,
4 provided that all related information is received without any
5 further delays," and then, "Please don't hesitate to contact me
6 for anything," and so on. And that's signed off on by
7 Mohammad, right?

8 A. Yes.

9 Q. So, that was as of December 4th of 2013, as I've
10 indicated, right?

11 A. Yes.

12 Q. And you would agree with me that that is a fairly detailed
13 list of requests from Robert Allen?

14 A. Yes.

15 Q. And eight days after that you're suggesting that legal
16 action be taken or reviewed to Mr. Cioffi?

17 A. Yes. Can I clarify?

18 THE COURT: I already told you, you can clarify. The
19 answer is "Yes."

20 A. Yes. I made the recommendation to Chuck Cioffi to have
21 Legal start to take a look at this, and it was in reference to
22 the \$200,000 specifically for the refund or credit.

23 Q. Okay.

24 MR. HARRINGTON: Sorry about my delays, Judge, here.
25 I need a bigger binder. My stuff keeps falling out.

1 THE COURT: It's okay.

2 (Pause)

3 Q. Now, you had indicated that I think in your time you had
4 tried to give law enforcement kind of a summary of your
5 contacts from the time that you started at Robert Allen that
6 you had with DigitalNet, and you tried to give them kind of a
7 summary of your contacts, correct?

8 A. Correct.

9 Q. And you would agree with me that --

10 THE COURT: The last exhibit number, what was it
11 again?

12 MR. HARRINGTON: That was Exhibit X --

13 THE CLERK: 2.

14 MR. HARRINGTON: 2, I believe, Judge. X-2, your
15 Honor.

16 THE CLERK: It's in the black binder, Judge, the
17 defendant's exhibits.

18 THE COURT: Hang on a minute.

19 (Pause)

20 THE COURT: Okay. So, this email is from DigitalNet
21 support, and it's to Mac, and you're copied on it, right?

22 THE WITNESS: Yes.

23 THE COURT: So, who did you think it was from? If
24 there was a person you would assign to this in your own mind at
25 the time -- was there a person?

1 THE WITNESS: If it's coming from the support --

2 THE COURT: Oh, it says "Mac." It says "Mac."

3 MR. HARRINGTON: Actually, if you go just a little bit
4 further down, Judge, you'll see it says, "Greetings, Dean."

5 THE COURT: So, why does the email header say it's to
6 Mac from DigitalNet support? I'm not following.

7 MR. HARRINGTON: I'm not sure the copy, if it was like
8 a copy forwarded or something like that, Judge, but it was
9 addressed to Dean.

10 THE COURT: Do you know?

11 THE WITNESS: That support is normal email
12 correspondence support that Ray Courtois and I had with Anwaar,
13 so we just figured it was --

14 THE COURT: Anwaar.

15 THE WITNESS: -- Anwaar or representing from that
16 perspective.

17 THE COURT: So, it's an email from let's just say
18 Anwaar for a minute. It's from DigitalNet support.

19 THE WITNESS: Correct.

20 THE COURT: To Mac. You're copied on it, but it's,
21 "Greetings Dean."

22 THE WITNESS: Correct.

23 THE COURT: Does that strike you as weird?

24 THE WITNESS: Yes, very much so.

25 THE COURT: Why?

1 THE WITNESS: Because, normally, whoever is on the
2 "To" would have the name presented.

3 THE COURT: Okay. For the same reason I think it's
4 weird?

5 THE WITNESS: Yeah.

6 THE COURT: Okay. I thought there was some internal
7 company reason it's weird.

8 MS. LE: Your Honor, may I just help to clarify? If
9 you look at the rest of it, and it's part of a chain, and I'm
10 sure the sender did not intend to direct the email to, quote,
11 Mac.

12 MR. HARRINGTON: If we go down to page 3 in the
13 Exhibit --

14 THE COURT: I see Mohammad.

15 MR. HARRINGTON: And, actually, if you go to page 3
16 it's Bates stamp ending in 01709, Judge, you'll see it says
17 "Mac Chaudhary." It's on the bottom half of the page.

18 THE COURT: At this point does RAG have any inkling
19 that its former Chief Information Officer is affiliated with
20 DigitalNet?

21 THE WITNESS: No.

22 THE COURT: I know it's an obvious question, but I
23 just want to make sure I didn't miss some fact that would have
24 put you on notice of that. No, right?

25 THE WITNESS: Right.

1 THE COURT: Okay. Go ahead, Counsel.

2 MR. HARRINGTON: Thanks, Judge.

3 BY MR. HARRINGTON:

4 Q. I'm going to refer you to Exhibit W-1 that I'll put up for
5 you.

6 MR. HARRINGTON: And, Counsel, I'm going to go to page
7 00055.

8 MS. LE: What exhibit?

9 MR. HARRINGTON: I'm sorry. I thought I had said it to
10 you already. It's Exhibit W-1.

11 MS. LE: W-1.

12 MR. HARRINGTON: Yeah, and ending in page 00055.

13 MS. LE: Just 55 at the end?

14 MR. HARRINGTON: Yeah.

15 MS. LE: Thank you, sir.

16 THE COURT: Just a heads-up just so you can think
17 ahead. I'm not going to ask you to do this today or overnight
18 or anything. Usually, what I do in a bench trial, most of my
19 bench trials are civil injunction hearings, like last week
20 Monday, Tuesday and Wednesday I had one. For any bench trial
21 what I generally order is a timeline be prepared that's
22 stipulated, although in a criminal case that indicates
23 different things. You don't have an obligation to stipulate to
24 anything, I know, but I'm finding myself a little bit confused
25 sometimes about timing of some of these issues, so I'm going to

1 ask for next Monday that you prepare a timeline, that the
2 prosecution prepare a proffered timeline of how you understand
3 the time of these events as they played out. It doesn't have
4 to be *War and Peace*, just the important events. I just asked
5 the witness, "Were you on notice yet that the former CIO of the
6 company was affiliated with DigitalNet?", and he said, "No." I
7 don't even know when they ever became aware. You're probably
8 going to show me that. I know. It might have even been just
9 during the investigation. I don't know.

10 But I don't know the answers to those questions, so I
11 would like a timeline. To the extent you differ from it, you
12 can submit one, too. It would be good if you could stipulate
13 to one, but I'm not going to order in a criminal case the
14 defendant to stipulate to anything, because I think it violates
15 the defendant's constitutional rights. Go ahead.

16 MS. LE: Sure. And, your Honor, I started kind of a
17 working timeline where we could present it to defense counsel
18 whether they agree or not. We borrowed it from a format that
19 one of the other judges had used in a civil trial, so maybe
20 that would help. It breaks it down into different segments.

21 THE COURT: Yeah. I can give you one of my timelines
22 from one of my other cases to go by, but it doesn't have to be
23 anything special, it doesn't have to be formatted like a
24 pleading. Any kind of timeline is fine. And then, to the
25 extent that the defendant agrees, that's fine. To the extent

1 the defendant disagrees, he can file an alternative. Thank
2 you.

3 MR. DAVIS: I would only add, your Honor, the most
4 confusing period I think is the period where Robert Allen Group
5 is going on at the same time that events are happening at
6 United Way.

7 THE COURT: Sure. That makes sense.

8 MR. DAVIS: It is confusing.

9 THE COURT: It does make sense.

10 All right. Proceed. Thank you.

11 MR. HARRINGTON: Thanks, Judge.

12 BY MR. HARRINGTON:

13 Q. So, kind of on the topic, still, of communication, if you
14 will, that last exhibit we talked to, obviously the header you
15 had indicated was kind of odd, but you understood the email was
16 directed to you. It named you, correct?

17 A. Correct.

18 Q. Okay. And in regard to communication with Mr. Courtois,
19 you and Barbara Marcoon -- am I pronouncing her last name
20 correctly?

21 A. Marcoon.

22 Q. -- Marcoon would be in communication with Mr. Hussein,
23 correct?

24 A. Anwaar?

25 Q. Yeah. Anwaar Hussein, correct. And that is correct,

1 right?

2 A. Correct.

3 Q. Okay. And there are times that meetings were set and you
4 were going to have regularly scheduled meetings, right?

5 A. Yes.

6 Q. And sometimes people missed those meetings from Robert
7 Allen?

8 A. Correct.

9 Q. And sometimes you missed several days in a row of
10 meetings, right?

11 MS. LE: Your Honor, may I just object at this point?
12 I'm sorry if counsel -- it doesn't seem like counsel has laid a
13 foundation --

14 THE COURT: Just tell me what your objection is.

15 MS. LE: -- whether this witness has a basis of
16 knowledge to answer these questions. They're talking about
17 other people. He can speak to whether he missed meetings with
18 DigitalNet.

19 THE COURT: He can speak to whether other people
20 missed meetings if he was at the meetings.

21 Answer if you know. If you don't know, say you don't
22 know.

23 And if your objection is that there's no foundation
24 for this, I'll sustain it.

25 Lay the foundation, Mr. Harrington.

1 MR. HARRINGTON: Do you want me to lay a foundation,
2 Judge?

3 THE COURT: It's pretty simple. "Do you know?" "How
4 do you know?"

5 Q. So, in regard to meetings, were you aware that other
6 people, like Mr. Courtois and Ms. Marcoon, missed meetings,
7 scheduled meetings with DigitalNet?

8 A. I was aware.

9 Q. And also, obviously, you missed meetings that were
10 scheduled with DigitalNet?

11 A. I missed one.

12 Q. Okay.

13 A. One that I was supposed to be part of or departed early.

14 Q. Let me ask you, in regard to things that were done, I'm
15 referring you to --

16 MR. HARRINGTON: This is, again, Exhibit 1, Counsel.

17 MS. LE: W-1.

18 MR. HARRINGTON: Yes, Exhibit W-1 ending in page 61.

19 Q. And I want to put this up for you, Mr. Riviera. This is
20 an email that was sent to you from Mr. Anwaar Hussein, correct?

21 A. Correct.

22 Q. And he addresses -- you, Dean and Bob are in the email,
23 correct?

24 A. Correct.

25 Q. And up in that kind of part where it says, "Only visible

1 to," up here, kind of indicates only visible to Anwaar Hussein,
2 DigitalNet Administrator, Barbara Marcoon, Dean Riviera, and
3 two others, right?

4 A. Correct.

5 Q. And it's basically saying, "We finished our development
6 work as per the new design on the account/studio detail page as
7 per our plan." And this is sent to you in February, February
8 12th of 2014, right?

9 A. Correct.

10 Q. And it says, "Please find below the list of the pages that
11 are completed with respect to the new design, and it goes
12 through a number of pages: home page, sign-in page, my
13 account, account dashboard, my account order, my account, my
14 studio, my account, my studio/detail, right?

15 A. Correct.

16 Q. And it advises that the pages have been published on the
17 Magento kind of worksite, correct?

18 A. Correct.

19 Q. And it indicates that you may not be able to view the
20 exact same look due to the nonavailability of fonts on file,
21 right?

22 A. Correct.

23 Q. This thing goes on to say that, again, that they're
24 missing things from Robert Allen, right? And it's basically
25 saying here, "Please find the below list of pending items,"

1 that they want from Robert Allen, and there's a list of missing
2 design fonts, number one, right?

3 A. Correct.

4 Q. FS document and other comments describing the services
5 detail to invoke some action on the buttons, so on and so
6 forth. Number 3, a list of Db2 web services detail from Mike
7 that are still needed to be developed. Number 4 TinEye API and
8 account information to integrate color base search
9 functionality and Magento extensions.

10 So, another list of items that Robert Allen is being
11 requested to provide to DigitalNet, correct?

12 A. Correct.

13 Q. And there were some times -- were you aware that there
14 were some times where DigitalNet had trouble accessing areas
15 that were controlled by Robert Allen relative to this website
16 design?

17 A. Can you clarify? I'm not familiar.

18 Q. Sure. Let me show you exhibit -- this is still W-1, page
19 ending in 59. So, you'll see here on January 20th Mr. Hussein
20 is asking Ray Courtois, "Please send us the web address where
21 you have published web services that we have developed so we
22 can start utilizing the new web services in our Magento code
23 based upon our understanding and the document describing the
24 web methods in your current website."

25 Mr. Courtois then says, "Here is the link."

1 Then Mr. Anwaar gets back to him saying, "We are
2 unable to access this. I have checked it from two different
3 networks but unable to access."

4 And then Mr. Courtois again responds, "Currently,
5 these services are in our test environment, so you have to be
6 logged into our VPN to access these. Eventually we will move
7 them to production."

8 Correct?

9 A. Correct.

10 Q. Okay. So, there were occasions on which access was not
11 immediately available to DigitalNet to accomplish some of the
12 tasks, correct?

13 A. That email --

14 Q. If you don't know, sir, it's okay to say you don't know.

15 A. I don't know. I was not in the loop.

16 Q. Fair enough.

17 A. Yeah.

18 Q. Just a couple of further questions in regard to the
19 telephony system. So, I'm going to switch gears a little bit,
20 okay, Mr. Riviera?

21 A. (Witness nodded).

22 Q. The services for telephony, I think you indicated to the
23 judge yesterday payment had been stopped on the telephony
24 services for several months, right?

25 A. I was aware of it, yes.

1 Q. Yes. And so, you had received the notices relative to
2 that?

3 MR. HARRINGTON: And this is in as an exhibit. If you
4 wouldn't mind blowing up Exhibit 722.

5 Q. And while we're pulling that up, would you agree with me,
6 and we may not have to pull it up if you remember the answer to
7 the question, that in regard to the telephony services I think
8 you indicated yesterday that services for that had not been
9 paid for December, January, February or March. Does that
10 confirm in your recollection?

11 A. That's what I saw, but I was not in the loop. I was aware
12 of the email, but I'm not accountable.

13 Q. Understood. I'm just saying that you can confirm for the
14 judge that Robert Allen had not paid for telephony services to
15 DigitalNet for December, January, February and March, right,
16 based on your understanding of the email exchanges?

17 A. Correct.

18 Q. And, as a result of that, there were notices that were
19 sent from DigitalNet to Robert Allen saying that services were
20 going to be terminated, right?

21 A. Correct.

22 Q. And, in fact, it wasn't just, like, one notice; there were
23 two notices sent, as you recall, correct?

24 A. Correct.

25 Q. And you would also agree with me that DigitalNet did not

1 take any action to actively interrupt Robert Allen's telephony
2 services? You turned them over to different providers, but
3 DigitalNet did not take any steps to actually stop the service?

4 THE COURT: Hold on.

5 MR. HARRINGTON: I'm sorry, your Honor?

6 MS. LE: No, please. Sorry.

7 Q. DigitalNet did not take any active steps to stop the
8 service before you switched it over to a new provider?

9 MS. LE: Objection. No basis of knowledge of what
10 DigitalNet would have done actively versus what this person
11 knew, your Honor. How would he know what DigitalNet did
12 actively or inactively? And then we also have other evidence
13 that they did take steps to cancel the contract, your Honor.

14 THE COURT: I saw what steps they took. I've seen it.
15 I've seen the evidence. He's asking his opinion about
16 characterizing whether he took steps or not. To the extent
17 you're objecting about whether he had personal knowledge, it's
18 overruled. He was the recipient of the exchanges.

19 MR. HARRINGTON: Email.

20 THE COURT: So, overruled. Go ahead. I saw what
21 steps they took. Did they actually cut it off? No. They
22 threatened to. That's the steps they took. I'm not a jury,
23 guys. Let's get it going. We're spending way too much time on
24 all of this. This isn't a civil case about whether he was good
25 at his job.

1 Do you know they took steps?

2 THE WITNESS: I don't know. I was not in the loop.
3 When I received that communication about the discontinuing
4 notice, I forwarded it to Chuck Cioffi. I was completely out
5 of the loop, and that was a financial thing, so I don't know.

6 THE COURT: You may continue.

7 BY MR. HARRINGTON:

8 Q. And then you had indicated to the judge you took steps to
9 switch the phone system over?

10 A. According to discussions with Chuck Cioffi.

11 Q. And then you did that, right?

12 A. Yes.

13 Q. And you were able to do that without any interruption in
14 services for the telephony?

15 A. Correct, because we were going in parallel.

16 Q. Understood.

17 A. Yeah.

18 MR. HARRINGTON: Judge, I don't have any other
19 questions for Mr. Riviera. Thank you, Mr. Riviera.

20 THE COURT: Redirect.

21 MS. LE: Thank you, your Honor.

22 REDIRECT EXAMINATION

23 BY MS. LE:

24 Q. All right. Sir, you were asked about that contract,
25 Exhibit 306, the telephony contract?

1 A. Yes.

2 Q. Okay. That was signed in August of 2013, correct?

3 A. Correct.

4 Q. This was based on what you've learned through your
5 cross-examination by counsel that the defendant left as CIO in
6 September of 2013. Who was CIO when that contract was signed?

7 A. I have no idea.

8 Q. Was it Imran Alrai?

9 MR. HARRINGTON: Objection, Judge. He said he had no
10 idea.

11 THE COURT: He just said he had no idea.

12 MS. LE: Okay.

13 THE COURT: Do you know if it was Imran Alrai?

14 Q. Who was the prior CIO --

15 THE COURT: Hold on. Let me ask a question.

16 MS. LE: Sure.

17 THE COURT: You said you didn't know. She followed up
18 with did you know it was Imran Alrai? Did you know it was
19 Imran Alrai?

20 THE WITNESS: No.

21 Q. There was a period of time -- counsel asked you that there
22 was a period of time where there was no CIO at Robert Allen
23 Group, right?

24 A. Correct.

25 Q. And are you familiar with -- are you aware of who the CIO

1 was before you started there?

2 A. Yes.

3 Q. And who was that person?

4 A. Imran Alrai.

5 Q. Okay. Now, sir, you were talking about bandwidth, and
6 there was some issue about phone problems because of the poor
7 bandwidth available in the system, right?

8 A. Correct.

9 Q. And when you came on you noticed those problems? Is that
10 what you said?

11 A. I observed those problems, yes.

12 Q. Did you address those issues with the bandwidth?

13 A. Yes, I did.

14 Q. How did you address those issues with the bandwidth on the
15 phone system?

16 A. Well, Kal Wahbe was our network engineer, so I met with
17 Kal to start taking a look at what we can do with the network
18 as is and start taking a look at a fiber network to upgrade it.

19 Q. And were you able to upgrade into a fiber network?

20 A. Yes, eventually.

21 Q. Counsel asked you about the contract that made it clear
22 that the bandwidth was going to be Robert Allen Group's
23 responsibility, right?

24 A. Correct.

25 Q. And that is actually on page 221 of Exhibit 306; is that

1 right?

2 A. That's correct.

3 Q. Okay. And you attempted to explain that to us, that
4 requirement about bandwidth. Do you recall that?

5 A. Correct.

6 Q. And do you remember your testimony on direct about that
7 particular page --

8 MS. LE: Actually, can we pull it up, Ms. Sheff, 306,
9 page 221. 306, yes. You have the right page. Can you click
10 through?

11 Maybe, Counsel, we had the wrong page when we were
12 talking about it earlier.

13 All right. Go back a few pages.

14 Q. Right here. This section?

15 A. Yes.

16 MS. LE: Okay. All of it, Ms. Sheff. I'm sorry. The
17 section on bandwidth. Okay.

18 Q. Sir, as CIO, you read this information, right?

19 A. Correct.

20 Q. Why did you read this information?

21 A. Because the bandwidth and the firewalls and the network
22 quality is the basis for a good phone call.

23 Q. Okay. And if you build a fancy phone system on a weak
24 infrastructure, what happens?

25 A. It crashes. You have latency. You have quality of

1 service issues.

2 Q. And you didn't enter into this contract?

3 A. Correct.

4 Q. You had no role in negotiating this contract?

5 A. Correct.

6 Q. And if you were to negotiate a similar contract what would
7 you have done?

8 A. I would have -- that section on bandwidth pops off the
9 page. I would have made sure that we would have performed a
10 network analysis on the network to make sure that the network
11 was adequate. So, there are speed tests, there are bandwidth
12 tests, there are monitoring tests to take a look at that
13 network to see if it's sufficient enough for the company.

14 Q. And have you done this in the past in setting up new phone
15 systems for your various companies?

16 A. Yes. That's primarily one of the first things you do,
17 take a look at bandwidth and make sure, because there's
18 different spikes and levels in a company. You know, when
19 everybody logs onto their email in the morning the network
20 spikes because there's a high influx of network bandwidth and
21 data flowing. You also see it at noontime and at the end of
22 the day. When you run these network tests you have an idea
23 that you have high-volume activity between 8:00 a.m. and
24 9:00 a.m. and noontime and at the end of the day. You want to
25 make sure that you have sufficient headroom to accommodate all

1 levels of network activity.

2 Q. And this type of assessment and making sure that your
3 system has the bandwidth to support the new phone system you are
4 considering bringing into the company, is that a normal
5 responsibility of a CIO or his staff under him?

6 A. Yes.

7 Q. Now, during that gap that counsel referred to from when
8 your predecessor CIO at Robert Allen Group left and when you
9 came onboard, are you aware were there people at Robert Allen
10 Group working with DigitalNet on designing that website?

11 A. Prior to me coming onboard?

12 Q. Yes, sir.

13 A. Yes.

14 Q. And who was that?

15 A. That was Ray Courtois, Barbara Marcoon and Mike Martino.

16 Q. And do you have an understanding about whether when your
17 predecessor CIO left, that period between when he left and when
18 you came on, whether DigitalNet and Robert Allen Group decided
19 they were not going to work on it until the new CIO came
20 onboard?

21 A. I didn't know about that until I read the contract when I
22 came onboard.

23 Q. No. But is it your impression that there was work being
24 done in the meanwhile? Based on your review of the
25 communications, are you aware of whether there was ongoing

1 conversations between DigitalNet and Robert Allen Group on the
2 website project? Do you know?

3 A. No, no.

4 Q. You would not have personal knowledge?

5 A. No, I would not have personal knowledge.

6 Q. Right. Because you weren't there yet.

7 A. I weren't there.

8 Q. So, counsel went through with you some chats between
9 Anwaar and various people on your team; is that right?

10 A. Correct.

11 Q. In November, December, January into February; is that
12 right?

13 A. Correct.

14 Q. Okay. But those aren't the only communications between
15 Robert Allen Group and DigitalNet?

16 A. Correct.

17 Q. Okay. And you remember yesterday we talked about two
18 conference calls that you had?

19 A. Correct.

20 Q. There were more conference calls, correct?

21 A. Correct.

22 Q. All right. Do you remember having a phone call -- let's
23 see. So, we talked about a December 3rd phone call, right?

24 A. Correct.

25 Q. Let me double check my notes. Did you have another

1 conference call in January 2014? And I can show you an email,
2 if that helps you refresh your memory, if your memory is
3 exhausted.

4 MR. HARRINGTON: Judge, I'm just going to interject
5 and pose a brief objection, which is I believe, if I'm not
6 mistaken, that counsel covered all of this on direct
7 examination about the conference calls and things of that
8 nature. I'm not insinuating that there weren't. I'm just
9 pointing out that there was also some lack of communication.
10 I'm not insinuating there weren't others. I thought counsel
11 had gone through it fairly extensively in direct about the
12 communications that they had. It seems to be a little
13 repetitive, so I don't know if it's necessary. I think it's
14 cumulative for you.

15 THE COURT: If she thinks she's repairing, I'm going
16 to allow it.

17 MR. HARRINGTON: Thank you, Judge.

18 THE COURT: Point taken.

19 Q. Sir, is your memory exhausted about the exact dates when
20 you may have had additional conversations other than the ones
21 we talked about during your direct examination?

22 A. There was four conversations with Mac only.

23 Q. There were four conversations with Mac?

24 A. 27th, December 3rd, December 6th, and December 11.

25 Q. Do you remember having a conversation on January 24th,

1 2007?

2 A. No.

3 Q. Or thereabouts? Or with DigitalNet? I'm sorry. May I
4 show you something --

5 A. Yeah, sure.

6 Q. -- and ask if you remember this? I'm going to show you,
7 this is from Bates label page 513, and this is not an exhibit
8 that we're introducing, but, sir, do you see the date of that
9 email?

10 A. Yes.

11 Q. And who's the author?

12 A. Me.

13 Q. And the date is January 24, 2014?

14 A. Correct.

15 Q. "Ray, Barbara and myself had another bad meeting with
16 DigitalNet." Read the email. So, does that refresh your
17 memory about whether you had another conference call with
18 DigitalNet in January 2014?

19 A. Yes. "Hi, Chuck, FYI, Ray, Barbara and myself had another
20 bad meeting with DigitalNet. Mac told Anwaar to stop moving
21 our assets to our servers until RAD provides payment. In
22 addition, they are doing a very poor job developing the web
23 pages. We will never get a quality product -- "

24 THE COURT: Slow down. The reporter is struggling to
25 keep up with you. You've got to slow down.

1 THE WITNESS: Okay.

2 THE COURT: We all read fast when we start reading.
3 Just take it slow.

4 THE WITNESS: Start over?

5 THE COURT: Yeah.

6 A. "Hi, Chuck, FYI, Ray, Barbara and myself had another bad
7 meeting with DigitalNet. Mac told Anwaar to stop moving our
8 assets to our servers until RAD provides payment. In addition,
9 they are doing a very poor job developing the web pages. We
10 will never get a quality product from DigitalNet even if they
11 deliver the assets. See comments below. Ray is going to
12 summarize some comments for us to add to our audit trail."

13 Q. So, does that refresh your memory about whether you had a
14 phone conference with somebody at DigitalNet?

15 A. With someone at DigitalNet, specifically Anwaar.

16 Q. Okay. So, it wasn't with Mac?

17 A. Correct.

18 Q. So, the four meetings with Mac were the four you just
19 named for the Court?

20 A. Correct.

21 Q. All right. Let me see. I'm showing you --

22 MS. LE: Ms. Sheff, if you can pull up Exhibit 714.

23 Q. Okay, sir, do you recognize this email?

24 A. Yes.

25 Q. How do you recognize this email?

1 A. Because it's an email from Ray Courtois to Chuck Cioffi,
2 CC myself and Bob Powers.

3 Q. And is this that follow-up you were discussing earlier?

4 A. A follow-up on the invoice.

5 Q. And does this email list all the things that Robert Allen
6 Group had provided as part of the discussions with DigitalNet
7 about the website project?

8 A. Yes. Correct.

9 MS. LE: Your Honor, at this time the Government moves
10 to admit 714 and strike the identification.

11 MR. HARRINGTON: No objection, your Honor.

12 THE COURT: Admitted.

13 (Government's Exhibit No. 714 received into evidence)

14 Q. So, can you go ahead and just read this part into the
15 record.

16 A. Yes. "So far to date we have, at our instance --
17 insistence, engaged DigitalNet with daily 9 a.m. meetings to
18 move progress forward on this project. Daily calls have only
19 resulted in more frustration on the progress of the project.
20 We have turned over many items required beginning 9/25/13,
21 including wire frame documents, functional specification
22 documents, design element detail documents, mobile wire frame
23 documents, database layout and diagram documents, design font
24 data files, SQL web procedure documents, current website
25 functionality detail document, project plan according to Robert

1 Allen Group specifications, Magento account access codes,
2 access to RAD all development servers. The data has resulted
3 in the following home page. HTTP --"

4 THE COURT: You don't have read that.

5 A. Okay. "Creation on the front end. There is no real
6 functionality behind this page yet, and since no other assets
7 have been shared with us we cannot verify that any additional
8 work has been completed. Please contact myself or Dean with
9 any additional questions."

10 Q. Thank you. Sir, during your -- how many years were you
11 employed at Robert Allen Group, again?

12 A. From 2013 to 2017.

13 Q. And during that period of your employment at the Robert
14 Allen Group did you learn about the defendant's connection to
15 DigitalNet?

16 A. No.

17 Q. When did you learn about the defendant's connection to
18 DigitalNet?

19 A. When I was subpoenaed.

20 Q. Oh, to appear for this trial?

21 A. Yeah.

22 Q. Was it when you were interviewed by the officer?

23 A. By Mr. Davis and Todd Donnelly.

24 Q. So, as part of this investigation?

25 A. Correct.

1 MS. LE: Thank you, your Honor. No further questions.

2 THE COURT: Thank you, Counsel.

3 MR. HARRINGTON: I have no follow-up questions, your
4 Honor.

5 THE COURT: Now you can leave.

6 (Witness stepped down)

7 THE COURT: I've got to tell you, you are a very
8 precise thinker, clear communicator, honest witness. I thought
9 you did your duty.

10 THE WITNESS: Thank you.

11 MR. DAVIS: Pat Latimore, your Honor.

12 THE COURT: I'm sorry. Who did you call again?

13 MR. DAVIS: Patricia Latimore, L-a-t-i-m-o-r-e.

14 THE CLERK: Good morning. Please remain standing.
15 Raise your right hand.

16 **PATRICIA LATIMORE**, having been duly sworn by the
17 Clerk, was examined and testified as follows:

18 THE CLERK: For the record, please state your full
19 name and spell your last name.

20 THE WITNESS: Patricia Latimore, L-a-t-i-m-o-r-e.

21 THE CLERK: Thank you. Please be seated.

22 DIRECT EXAMINATION

23 BY MR. DAVIS:

24 Q. Good morning, Ms. Latimore.

25 A. Good morning.

1 Q. Please speak slowly and use the microphone as needed.
2 That will help amplify your voice.

3 A. Okay.

4 Q. How are you employed?

5 A. I'm the COO for the United Way of Massachusetts Bay and
6 Merrimack Valley.

7 Q. All right. And get a little closer, if you would, to
8 that, or maybe it can bend a little more. Good. Okay.

9 How long have you worked at United Way?

10 A. I've worked there for 10 years.

11 Q. So, did you come in in approximately 2009?

12 A. I came in in 2009.

13 Q. And did you come in as the CFO, the Chief Financial
14 Officer, of United Way?

15 A. Yes, I did.

16 Q. And are you currently the Chief Operating Officer of
17 United Way?

18 A. Yes, I am.

19 Q. Okay. Can you briefly summarize your relevant
20 professional experience before you came to United Way.

21 A. Yes. I have an MBA from Columbia Business School. I have
22 worked for a number of years for technology companies. Ten
23 years prior to coming to the United Way I worked for a
24 financial services company as a controller. I've been in the
25 financial area, administration area for most of my career.

1 Q. And do you have experience supervising IT functions at
2 companies?

3 A. Yes, I do.

4 Q. All right. Now, do you know Imran Alrai?

5 A. Yes, I do.

6 Q. Would you point him out for the Court, please.

7 A. He's over there (indicating).

8 Q. And did you supervise him or did he report to you for a
9 number of years at United Way?

10 A. Yes, he did.

11 Q. Now, do you recall that he was hired early in 2012?

12 A. I do.

13 Q. And were you involved directly in that hiring process?

14 A. I was involved in the hiring process after it had been
15 narrowed down to two candidates, and I interviewed him and
16 another person.

17 Q. Okay. And was it understood that he was coming on to be
18 supervised by you or by a different person at that time?

19 A. He was coming on to be supervised by someone else.

20 Q. And was that Nancy Powers?

21 A. Yes, it was.

22 Q. And what was her job at United Way?

23 A. Nancy was the VP of Operations and IT.

24 Q. So, Mr. Alrai reported to Nancy Powers after he started
25 until when?

1 A. Until September of 2012.

2 Q. And is that when Nancy Powers left?

3 A. Yes, it was.

4 MR. DAVIS: And, Judge, can the Court hear
5 Ms. Latimore's voice well?

6 THE COURT: Oh, yeah.

7 MR. DAVIS: Okay, good.

8 Q. All right. What was Mr. Alrai hired as?

9 A. He was hired as Senior Director of IT.

10 Q. Okay. Now, can you say a little bit about the status of
11 IT at United Way in early 2012. In 2012 was the company trying
12 to move in a different direction regarding IT?

13 A. Yes. The company was -- we had had a lot of discussions
14 about where IT was for the company. There was a lot of
15 dissatisfaction internally with IT. In addition, we all
16 recognized that our infrastructure and applications needed to
17 be updated, especially if we needed to accomplish some of the
18 goals that we had for ourselves on the business side.

19 Q. All right. And did you have an outside vendor prior to
20 2012 and during 2012 called CWAIN?

21 A. Yes, we did.

22 Q. And is that C-W-A-I-N?

23 A. Yes, it is.

24 Q. And was the general attitude at the United Way regarding
25 CWAIN a happy and contented one or not?

1 A. It was mostly discontented. We had been trying to
2 implement a CRM system with them, which was the system that
3 controls most of our business, and it had been going very
4 poorly for three to four years, and so there was a lot of
5 discontent.

6 Q. And, in addition, was CWAIN regarded as a fairly expensive
7 outside vendor?

8 A. Yeah. We knew that they were fairly expensive.

9 Q. All right. And so, in hiring the person or the position
10 that Mr. Alrai filled, were you at United Way attempting to
11 address those problems and to move in a different direction?

12 A. Yes, that was exactly our intent. We were trying to fill
13 this position because we recognized that internally to the
14 company that we did not have the expertise on the IT side that
15 we needed to manage vendors appropriately and also execute on
16 an IT strategy that would work for the company.

17 Q. Okay. So, you didn't hire Mr. Alrai directly, but you did
18 participate in hiring him?

19 A. Yes.

20 Q. What did you view as his strengths as a candidate when he
21 was hired, just briefly?

22 A. Well, we viewed that he had been at a number of companies
23 but, in particular, a company that was roughly the size -- a
24 little bit bigger than ours but roughly had the same scope,
25 that he was a hands-on person, that he seemed very technical.

1 He told us that he was a professor at one of the local
2 universities. And so, we were very impressed by the fact that
3 he had the skill set that seemingly would fulfill the need that
4 we had.

5 Q. Okay. Did you check his personal references in any way?

6 A. I did not, but our Human Resource Department did.

7 Q. And did you also know that you weren't contacting his
8 present employer at his request?

9 A. I did. My understanding from Nancy Powers was that, since
10 he was working at his company, that he had asked us not to
11 contact them, as you would if you did not get the job.

12 Q. And that's not unusual?

13 A. It's not unusual.

14 Q. Okay. And was the current company he was working for the
15 Robert Allen Group?

16 A. Yes, it was.

17 Q. Okay. All right. Now, once Mr. Alrai came aboard, did
18 the subject of an IT health assessment come up?

19 A. Yes, it did. Mr. Alrai asked us to do an IT health
20 assessment which would help him to understand the current
21 landscape, looked at vulnerabilities, but also make
22 recommendations for how we would start to go about an
23 improvement plan for our IT.

24 Q. And you recall that he, Mr. Alrai, made that suggestion
25 affirmatively?

1 A. Yes, he did.

2 Q. All right. And what was done to vet that? Did it go to
3 any committees at United Way?

4 A. Yes, it did. We had a discussion with the Finance and
5 Administration Committee, and they thought that it was a good
6 idea to actually do this, because we had been talking about
7 risk and also a lot about improving the IT infrastructure, and
8 so it was agreed upon by pretty much the management as well as
9 our board of volunteers (ph).

10 Q. Okay. So, United Way has a Board of Directors, correct?

11 A. Yes, it does.

12 Q. It also has an Audit and Finance Committee?

13 A. Yes, it does.

14 Q. Is that a board committee?

15 A. It's a board committee that is staffed by both board
16 members but also non-board members.

17 Q. Okay. Regarding the IT health assessment, do you know
18 whether there was a formal RFP or request for proposals process
19 for it?

20 A. I don't believe there was a formal RFP process, but my
21 understanding was Mr. Alrai went out and did a survey of a
22 couple of -- of several companies.

23 Q. And was a company ultimately proposed by Mr. Alrai to do
24 the health assessment?

25 A. Yes, it was.

1 Q. And what company was that?

2 A. DigitalNet.

3 Q. All right. I'm showing you Government Exhibit 605, and do
4 you see that email?

5 A. Yes, I do.

6 Q. And does that email indicate it's attaching the
7 Infrastructure Assessment Contract for United Way?

8 A. Yes, it does.

9 MR. DAVIS: I move to admit 605 and strike the ID.

10 MR. HARRINGTON: No objection, Judge.

11 THE COURT: It's admitted.

12 (Government's Exhibit No. 605 received into evidence)

13 Q. So, I want to go in just a minute to the attachment, but
14 this is communication between you and Mr. Alrai about the
15 Infrastructure Assessment Contract?

16 A. It's part of a long email chain, but, yes, the top of it
17 is.

18 Q. Okay. And the second email down, is that an email from
19 DigitalNet support to Mr. Alrai signed by Mohammad?

20 A. Yes, it is.

21 Q. And do you recall seeing other emails that Mr. Alrai sent
22 you that had communications by someone named Mohammad?

23 A. Yes, I have.

24 Q. And did you ever meet that person, Mohammad?

25 A. I'm looking at the -- let me just make sure I understand

1 -- I met someone whose name was Mac Chaudhary, and so I met him
2 once or twice.

3 Q. So, you met Mac?

4 A. Mm-hmm.

5 Q. Do you know whether his first name is Mohammad or Munawar?

6 A. Munawar, I thought it was, but not Mohammad, and I never
7 met -- so, I've never met a Mohammad.

8 Q. Okay. So, let's go to, just briefly, to the first page of
9 the contract: So, this is the network -- is this the so-called
10 IT health assessment --

11 A. Yes, it is.

12 Q. -- referring to Page 281 Bates stamp? Does this have a
13 signature page, next page, or third page? So, this states the
14 agreement, the health assessment agreement is made August 17th,
15 correct?

16 A. Yes, it does.

17 Q. And is that your signature for United Way as agreeing and
18 accepting the contract?

19 A. Yes, it is.

20 Q. Now, do you remember the assessment actually going on?

21 A. No, I don't remember it actually going on. I was aware
22 that it was going on, if you mean did I actually see people in
23 the office or anything like that, but I was given updates that
24 it was in progress.

25 Q. All right. And who gave you the updates?

1 A. At that time Nancy Powers, and I believe I had a couple of
2 conversations with Mr. Alrai also.

3 MR. DAVIS: So, we can take down 605.

4 Q. Eventually did Mr. Alrai come back with results of the
5 health assessment and recommendations?

6 A. Yes, he did.

7 Q. Now, do you recall whether you ever saw an actual report
8 by someone called DigitalNet that was entitled the "IT Health
9 Assessment"?

10 A. I do not recall seeing the report. I did see summaries of
11 the report that Mr. Alrai provided to me as well as to the
12 board committees.

13 Q. Okay. And did Mr. Alrai then make presentations
14 summarizing what that health assessment had come back with?

15 A. Yes, he did.

16 Q. And was that in the fall of 2012?

17 A. Yes.

18 Q. And after that?

19 A. Yes, he did.

20 Q. And can you summarize, as you recall them, the basic gist
21 of the health assessment recommendation for United Way?

22 A. Yeah. The basic gist was that our IT network and
23 infrastructure was fairly broken, that it needed to be rebuilt
24 from the start, that we should look at a unified vendor for
25 most of our IT needs, and that we would -- and there was a map

1 that showed, like, what would the future state look like, and
2 so that was basically it.

3 Q. Okay. And when you say "unified vendor," what do you mean
4 by that?

5 A. Meaning one, to bring all of our IT support under one
6 vendor.

7 Q. Okay. And do you recall the phrase "spaghetti strands"?

8 A. Yes, of course.

9 Q. And what was that?

10 A. Well, at the time we had a number of disparate systems. I
11 can't remember how many, but it was more than 10 or 12. And
12 they were either connected or not connected or integrated into
13 each other, and so it was like they were all over and they were
14 spaghetti, all tangled up like you would have. And so, what
15 Mr. Alrai presented to us was a picture that actually
16 simplified that, kind of putting in one centralized
17 infrastructure with, you know, just a few nodes.

18 Q. Okay. And so, whose idea was consolidating into a single
19 vendor at United Way?

20 A. Mr. Alrai.

21 Q. Is it fair to say that even prior to Mr. Alrai coming
22 there was interest in moving in that direction?

23 A. I would say that we had had some conversations, but I
24 wouldn't say that there was any direction until Mr. Alrai came
25 onboard that this was the direction that we should go, with one

1 vendor. And, in fact, I would say that we had been looking at
2 multiple vendors before. We knew that that process wasn't
3 working great but we didn't come to the conclusion that we
4 could have one -- we should have one vendor.

5 Q. Okay. So, showing you now Government Exhibit 606, which
6 is an email from Mr. Alrai to you with an attachment, do you
7 see that? Is that an email from him to you in December of
8 2012, "Notes on future IT strategy"?

9 A. Yes, it is.

10 MR. DAVIS: Your Honor, I move to admit Exhibit 606
11 and strike the ID.

12 MR. HARRINGTON: No objection, Judge.

13 THE COURT: Admitted.

14 (Government's Exhibit No. 606 received into evidence)

15 Q. If we could look at the attachment. And so, the first
16 page shows some fiscal numbers, current United Way IT model,
17 correct?

18 A. Yes.

19 Q. All right. And the next page. Okay. And so here at this
20 page it says "Proposed United Way IT model and strategy,"
21 correct?

22 A. Yes, it does.

23 Q. And can you read the first line in that proposal?

24 A. "Consolidate enterprise IT systems into a single,
25 interconnected platform."

1 Q. Okay. And the next-to-last one that begins "Consolidate."

2 A. "Consolidate vendors and establish stronger relationships
3 with only two to three partners for all outsource manage
4 on-site support and software coding services."

5 Q. Okay. So, this document was drafted by Mr. Alrai?

6 A. Yes, it was.

7 Q. All right. And were there meetings with the IT Advisory
8 Committee in the fall of 2012?

9 A. Yes, there was.

10 Q. And what was the IT Advisory Committee and what was its
11 function?

12 A. The IT Advisory Committee was made up of five to six CIOs
13 from many of our donor companies, and it was headed by Stan
14 Burrows, and the intent in it was a subcommittee of the Finance
15 and Administration Committee, and the intention was to provide
16 advisory services to us as we looked at making decisions around
17 IT.

18 Q. And Stan Burrows. Burrows is B-u-r-r-o-w-s?

19 A. Correct.

20 Q. And is he a person in the Boston area with very deep
21 experience in IT businesses?

22 A. Yes, he is.

23 Q. Okay. And were you hoping that Mr. Burrows would be and
24 could be a valuable resource to Mr. Alrai as your new IT chief?

25 A. That's why we set up the committee, would be to provide

1 some advice and counsel to him so that he would have the
2 benefit of their experience and expertise.

3 MR. DAVIS: All right. So, we can take down that
4 exhibit.

5 Q. Was a decision made to move forward with an RFP process to
6 identify an appropriate vendor to provide the basic IT services
7 for United Way?

8 A. Yes, there was.

9 Q. And when did that happen, and what happened?

10 A. That was the fall of 2012, and so we created an RFP and
11 reviewed the RFP with the IT Advisory Committee, told the A and
12 F Committee, the Administration and Finance Committee, that we
13 were proceeding forward with that, and created a committee or a
14 task group to help manage the process.

15 Q. All right. And you said "Administration and Finance." I
16 always say "Audit and Finance," but it is "Administration and
17 Finance"?

18 A. It's actually "Administration and Finance" for us.

19 Q. Okay. Thank you. You said you created a task group?

20 A. Mm-hmm.

21 Q. What was the task group?

22 A. Well, they were to help administer the RFP process.

23 Q. And who was on that group?

24 A. So, the committee was headed by Imran Alrai, as the IT
25 director. Azim Mazagonwalla represented finance, and one of

1 our other staff, Diane Dragoff, was doing the procurement piece
2 of it.

3 Q. So, it was a procurement person, a finance person, and
4 Mr. Alrai was to lead; is that correct?

5 A. Yes, it was.

6 Q. And who drafted the RFP?

7 A. Mr. Alrai.

8 Q. And did you assist with that?

9 A. No, I didn't assist with it. I did review it.

10 Q. Okay. Showing you Exhibit 607, and do you recognize that
11 as an email from Mr. Alrai to Stanley Burrows, copying you,
12 about the IT managed services RFP?

13 A. I do.

14 MR. DAVIS: All right. Your Honor, I move to admit
15 607 and strike the ID.

16 MR. HARRINGTON: No objection, Judge.

17 THE COURT: It's admitted.

18 (Government's Exhibit No. 607 received into evidence)

19 Q. If we can look briefly at the attachment, and so the
20 Request for Proposal is IT Managed Services Provider January
21 14, 2013, correct?

22 A. Yes.

23 Q. And can we look at the next page. There is a lengthy
24 table of contents showing eight pages. It includes an
25 introduction to United Way and a timeline and schedule,

1 correct? So, it looks like you're aiming to do this in January
2 and have someone selected by February of 2013, correct?

3 A. Yes.

4 Q. Okay. Now, were you closely or directly involved with the
5 soliciting of companies?

6 A. No, I was not.

7 Q. And what do you know or what did Mr. Alrai or anyone else
8 tell you about the soliciting of companies for the RFP process?

9 A. So, Mr. Alrai said that he was going to send the RFP to a
10 dozen to 15 companies, and that he was hoping that they would
11 all respond. We talked about the types of companies and who
12 they were, and so I was aware of the company and the list of
13 companies that it was being sent to.

14 Q. And what company were you aware of?

15 A. I was aware of all of them, frankly. I mean, there was a
16 bunch of companies. As I said, there was a long list of
17 companies.

18 THE COURT: Let's take the morning break, Counsel.

19 MR. DAVIS: Very good.

20 THE COURT: So, we'll reconvene at 11:00.

21 THE CLERK: All rise.

22 (Recess taken from 10:45 a.m. to 11:06 a.m.)

23 THE COURT: Please be seated.

24 Ms. Latimore, you're still under oath.

25 You may proceed, Counsel.

1 Q. Ms. Latimore, we were talking about the RFP in January of
2 2013. Let's take a step back, briefly. How is the RFP process
3 at the United Way supposed to work, or how does it typically
4 work?

5 A. So, typically, we always have a leader. The leader is the
6 functional leader. So, it's usually someone like Mr. Alrai,
7 whoever has the most expertise. It is typically you have a
8 small team of usually a finance person, and then procurement is
9 also always involved, and you have another person also a lot of
10 times who has some expertise in it. The group -- usually the
11 leader does draft the RFP. It is usually reviewed by all the
12 whole team for input. And then, in general, the CFO normally
13 weighs in on it, because the CFO has responsibility for
14 contracts and has to sign any contract that's completed by the
15 United Way.

16 And after that the team goes out, sends out the RFP to
17 the companies, get a response. The responses are usually
18 shared with the team, and then the team reviews them.
19 Different people have different expertise. So, on the finance
20 questions the finance person will take the lead. If it's a
21 more functional or technical issue, the person who is leading
22 the RFP normally leads that piece of it. And then that group
23 usually puts together a scoring sort of protocol, and they
24 score it and then make a recommendation, and that
25 recommendation goes to wherever the RFP is coming out to the

1 division head.

2 Q. And in other RFP processes that you've been involved in
3 have you actually, as a member of the group, actually reviewed
4 the proposals made by the different vendors?

5 A. As the CFO, when they were financial RFPs I have.

6 Q. All right. Now, in this case did you review, yourself,
7 any proposals from vendors?

8 A. No, I did not.

9 Q. And, to your knowledge, did anyone other than Imran Alrai
10 in this case review the RFP proposals?

11 A. During the time I thought that the committee had.
12 Subsequently, I understand that they did not actually see the
13 proposals.

14 Q. And, to your knowledge, has United Way identified in its
15 own records, including its email records, any RFP proposals
16 that came back on this RFP?

17 A. No, we have not.

18 Q. Have you ever seen, ever, an RFP proposal made on this
19 January 2013 RFP?

20 A. You mean a response?

21 Q. A response. Sorry.

22 A. No, I have never seen one.

23 Q. All right. Now, Mr. Alrai did send a list of companies
24 solicited, correct?

25 A. Yes, he did.

1 Q. And you've talked about that list. Let's look, briefly,
2 at Government's Exhibit 608. And you recognize that as an
3 email from Mr. Alrai to Stan Burrows, copying you?

4 A. Yes, I do.

5 MR. DAVIS: Your Honor, I move to admit 608 and strike
6 the ID.

7 MR. HARRINGTON: No objection, your Honor.

8 THE COURT: It's admitted.

9 (Government's Exhibit No. 608 received into evidence)

10 Q. And here you can see that Mr. Alrai is telling Stan that
11 there's a list of companies solicited and an evaluation and
12 selection criteria, correct?

13 A. Yes.

14 Q. So, let's go to the attached list. All right. And so,
15 this is Bates number 10219. You can see that there is a list
16 of 13 companies, correct?

17 A. Yes, I do.

18 Q. And the fourth one is called DigitalNet?

19 A. Yes.

20 Q. And you testified also you recognize most or all of the
21 other companies?

22 A. I wouldn't say most of them. I recognize some of them.
23 Automation Concepts & Technologies was a vendor of ours, and a
24 number of them were vendors.

25 Q. Okay.

1 A. Mm-hmm.

2 Q. All right. So, there's a list of companies. Mr. Alrai
3 tells you what? What does he tell you that's happening?

4 A. As the document says, he said these are the companies that
5 he had sent the RFP to, to companies to solicit for response.

6 Q. And did he then advise you about getting responses and
7 beginning to grade them?

8 A. He told us -- he told me in my one-on-ones with him that
9 he got responses from most of them, not all of them, I believe,
10 and I can't remember the exact number, but probably nine or ten
11 responses, and that he and the group had developed a criteria
12 for scoring.

13 Q. Okay. Scoring or grading?

14 A. Mm-hmm.

15 Q. Okay. And showing you Government Exhibit 609, do you
16 recognize that as an email dated February 13th of 2013 from you
17 to Stan Burrows?

18 A. Yes, I do.

19 MR. DAVIS: All right. Your Honor, I move to admit
20 609 and strike the ID.

21 MR. HARRINGTON: No objection, Judge.

22 THE COURT: Admitted.

23 (Government's Exhibit No. 609 received into evidence)

24 Q. Can you read the second paragraph there in your brief
25 email to Stan?

1 A. "Imran is in the process of scoring the RFPs. He is
2 reviewing the results with me this week, so you should hear
3 back from him next week.

4 Q. Okay. And you said, "Imran was scoring." Did you also
5 believe that Azim or Diane Dragoff was also involved in the
6 scoring?

7 A. I did, although, I also understood that this was a
8 very -- that many portions of this was very technical, and that
9 Imran would be the only person who could actually score some
10 portions of this. But, yes, I do believe -- I did believe that
11 Diane and Azim had seen the RFP responses and that they were
12 reviewing appropriately.

13 Q. Okay. And had you also been at an IT Advisory Committee
14 meeting where Stan Burrows had said something to Mr. Alrai
15 about responses to the RFP?

16 A. I had.

17 Q. And can you describe that and what was said?

18 A. Stan had two concerns, if I recall. The first was that he
19 was concerned that we did not get enough responses back. The
20 second was that he was concerned that the timing, that maybe we
21 had too short a time frame to actually review the RFP
22 responses.

23 Q. And what did he say to Mr. Alrai at the meeting?

24 A. He said exactly that. He said he was concerned about us
25 taking the amount of time because something to the nature of

1 that this was a once-in-a-long-time opportunity for the United
2 Way, so we shouldn't rush through the process.

3 Q. This was a big one, it was recognized, for the United Way?

4 A. Yes, absolutely.

5 Q. But did Mr. Burrows also say anything about his
6 willingness to review responses to Mr. Alrai?

7 A. He absolutely said --

8 THE COURT: You have to let him finish the question.

9 THE WITNESS: Oh, I'm sorry.

10 Q. Did Mr. Burrows say anything to Mr. Alrai about
11 Mr. Burrows' willingness to review responses?

12 A. Yes. He offered to review the responses.

13 Q. And what did he say, as you recall it?

14 A. Mr. Burrows?

15 Q. Yes.

16 A. He said that he would be -- he knew that it could be very
17 complicated going through a number of RFP responses, and that
18 he was available to work with Mr. Alrai.

19 Q. And Mr. Alrai was present at the meeting?

20 A. Yes.

21 Q. And how did he respond to that offer from Mr. Burrows?

22 A. He thanked them and then declined.

23 Q. Okay. So, did you see from Mr. Alrai what purported to be
24 a summary of RFP proposals?

25 A. Yes, I did.

1 Q. And was that summary used, then, to make decisions and to
2 brief the board and appropriate committees?

3 A. I reviewed the summary with Mr. Alrai in advance of an
4 advisory council discussion, and I believe also at the
5 Administration and Finance Committee we also talked about the
6 process and the responses and our decision, recommendation.

7 Q. So, showing you Exhibit 610 -- I'm sorry.

8 MR. DAVIS: So, just keep clicking through that. It
9 should be right after this. Okay. So, go back to page 1 of
10 this. One back, I think.

11 Q. Okay. So, is this -- we're looking now at page 596, is
12 the Bates number, which is part of Exhibit 610, which is the
13 RFP summary sheet. Do you recognize that worksheet?

14 A. I do.

15 MR. DAVIS: And, your Honor, I move to admit 610 and
16 strike the ID.

17 MR. HARRINGTON: No objection, Judge.

18 THE COURT: It's admitted.

19 (Government's Exhibit No. 610 received into evidence)

20 Q. And did you understand who had written this document,
21 Ms. Latimore?

22 A. Mr. Alrai authored the document. I understood that Azim
23 and Diane had reviewed it. I also reviewed it.

24 Q. Okay. And you can see the first page here is "Criteria
25 and Points Available." Do you see that?

1 A. Yes.

2 Q. All right. Let's go to the second page. Now, here do you
3 see the various selection criteria that are being used on the
4 left, Hostings, Data Management, et cetera?

5 A. I do.

6 Q. And then there are points available in each of those
7 categories, correct?

8 A. Yes.

9 Q. And then there are three companies in three separate
10 columns, right?

11 A. Yes.

12 Q. And what are the three companies?

13 A. mindSHIFT, DigitalNet and Eze Castle.

14 Q. Okay. And then the score sheet purports to give each of
15 them kind of a grade in each of these categories, right?

16 A. Yes.

17 Q. And so, the ultimate number is how much of 100 percent are
18 they deemed to have earned in the scoring, correct?

19 A. Correct.

20 Q. And when you look at Percentage Earned, you can see that
21 Eze Castle was somewhat behind, at 60. Well, that's cost. It
22 actually doesn't have a total there, right? Let's just go to
23 final score, which is the bottom item and that list of
24 criteria. You can see that Eze Castle in the totals scores at
25 93, correct?

1 A. Correct.

2 Q. And then mindSHIFT is at 95.5. Pretty good, right? In
3 the first column mindSHIFT gets a 95.5?

4 A. Correct.

5 Q. But the winner is who?

6 A. DigitalNet.

7 Q. And they're at 98.5, correct?

8 A. Correct.

9 Q. All right. And can we just go through the other pages of
10 the score sheet document. There are some comments here and
11 kind of explanations for each company and each grade, right?

12 A. Correct.

13 MR. DAVIS: Next page. Okay. Keep going, please.

14 Q. MindSHIFT and Eze Castle charged extra for antivirus and
15 antispam, right?

16 A. Correct.

17 Q. And for other items. It's noting areas where they're
18 going to charge more money to United Way, right?

19 A. Yes.

20 MR. DAVIS: And keep going.

21 Q. And cost, total points for cost and estimated. So,
22 mindSHIFT is rated at the highest, which is 738,435, correct?

23 A. Correct.

24 Q. That is the last column?

25 A. Correct.

1 Q. I'm sorry. That's Eze Castle, right, the last column,
2 738?

3 MR. DAVIS: Can you blow up the estimated. I'm sorry.
4 On that page, the last page the estimated annual cost in U.S.
5 dollars, right here, can you blow that up?

6 Q. All right. The third column corresponds to Eze Castle,
7 correct?

8 A. Yes, it does.

9 Q. And that's annual cost at 738k, right? The first column
10 corresponds to mindSHIFT, which is 665k, right?

11 A. Yes.

12 Q. And, again, the winner, the lowest bidder, is DigitalNet,
13 right?

14 A. Correct.

15 Q. Okay. And in all of the RFP process for this major
16 contract for United Way did Mr. Alrai produce any other
17 documents scoring and analyzing the RFP proposals besides this
18 seven-page document?

19 A. Not to my memory.

20 Q. All right. Do you remember talking with Mr. Alrai about
21 the finalists and, particularly, the two best finalists and his
22 kind of summary of whether they were competent?

23 A. Yes, I do. I mean, we talked, actually, about the three
24 finalists and that any of them could do the job, and it was
25 that we were making a decision based upon, as you could see,

1 the scoring was marginally better for DigitalNet, but that all
2 three were reasonable.

3 Q. But did he have in the end a recommendation?

4 A. Yes, because the scoring said DigitalNet was on not only
5 costs but on other criteria, as you saw in the seven pages.

6 Q. So, he didn't come in and tell you DigitalNet is hands
7 down the obvious choice here, did he?

8 A. No.

9 Q. It was much closer than that?

10 A. It was closer.

11 Q. But in the end DigitalNet wins?

12 A. Yes, they did.

13 Q. Okay. At any time in that discussion did Mr. Alrai
14 identify himself as having anything to do with DigitalNet?

15 A. Absolutely not.

16 Q. And did he identify any family member as having anything
17 to do with DigitalNet?

18 A. No.

19 Q. And did he identify any benefit, personal, financial or
20 otherwise, that he might be getting from a contract between
21 United Way and DigitalNet?

22 A. No.

23 Q. And for the next six years did he ever do that?

24 A. No, he did not.

25 Q. All right. Did Mr. Alrai ever talk to you about his

1 concerns about Stan Burrows at least potentially overstepping
2 his bounds?

3 A. Yes. We had several conversations about that. He felt
4 that Stan wanted to be too helpful, and that he was stepping
5 into managerial issues as opposed to advisory.

6 Q. Okay. So, how did United Way actually make the decision
7 to contract with DigitalNet? What steps had to be taken?

8 A. Well, as you saw, we reviewed the scoring. I sat with
9 Imran and the team and talked it through, kind of the scoring
10 pieces and their recommendation. We then took the
11 recommendation for review, but we were telling the Advisory
12 Committee that this was our decision and looked -- and telling
13 them what the process we had used, and then we went back to the
14 Administration and Finance Committee and told them that this
15 was our recommendation and did they have any particular issues
16 with it.

17 Q. Okay. And what happened after that?

18 A. It was approved, and then we notified DigitalNet that they
19 had won the contract but there was some more information that
20 we needed to get from them.

21 Q. So, DigitalNet had won pending further information,
22 correct?

23 A. Yes.

24 Q. And who did you rely on to notify DigitalNet that they
25 were the presumptive winner?

1 A. Mr. Alrai.

2 Q. Okay. Now, is the next step doing reference checks for
3 DigitalNet?

4 A. Yes, we did reference checks.

5 Q. Okay. And did you specifically ask for references?

6 A. I asked for references, and I received three references.

7 Q. Okay. And let's go to Exhibit 613, and let's go down to
8 the bottom of that, the last email. Do you recognize that as
9 an email chain involving you and Mr. Alrai, among others, about
10 the DigitalNet information?

11 A. Yes, I do.

12 MR. DAVIS: I move to admit Exhibit 613 and strike the
13 ID, your Honor.

14 MR. HARRINGTON: No objection, your Honor.

15 THE COURT: Admitted.

16 (Government's Exhibit No. 613 received into evidence)

17 Q. So, this all starts in February 2013.

18 MR. DAVIS: Can you scroll through to the last page,
19 please. I'm sorry. One back.

20 MS. SHEFF: Keep going?

21 MR. DAVIS: Keep going down. There's a Patricia
22 Latimore email. One more. There. Stop there.

23 Q. So, on page 10170 Bates stamp. Do you see that?

24 A. Yes.

25 Q. All right. Can you just highlight your email on February

1 23rd to Mr. Alrai, and could you read that, please.

2 A. "Although I signed the contract, I still did not get
3 information business/financial on DN," which is DigitalNet. "I
4 know you've worked with them in the past, but I really do not
5 know them, and there is not much information available about
6 them online. Can you provide me with the following
7 information: Who are the principals? Is it privately held?
8 Headquarter location, financials, customer lists and
9 references. What percent of their review do we represent? I
10 assume that you have much of this information, so please get it
11 to me by Monday or Tuesday."

12 Q. Okay. So, when you said there that, "I know that you've
13 worked with them in the past," what were you referring to?

14 A. So, Mr. Alrai and I had a conversation, so I was aware
15 that they had done the assessment at that time. I was also
16 aware that -- so, he knew who they were. We talked about did
17 he know them personally outside of sort of a business
18 relationship, and he said, "No," he didn't have any particular
19 personal relationship with them. He had a professional
20 relationship with them.

21 Q. Okay. So, let's go to the beginning of the next email up.
22 One down. Your email --

23 THE COURT: So, you just said he told you, "I don't
24 have a personal relationship with them. I have a professional
25 relationship with them." Is that your best memory of his exact

1 words?

2 THE WITNESS: It's my best -- it's not, of course, his
3 exact words, but it is something that -- I was concerned
4 because they were a small company that I had not heard of. I
5 also was aware that the principals were Pakistanis, so I was
6 asking, you now, it's a small community in Boston, "Do you have
7 a personal relationship with them?" And he said, "No, I have a
8 professional relationship with them."

9 THE COURT: Was that the end of the conversation, or
10 was there more of a back and forth?

11 THE WITNESS: With him?

12 THE COURT: Yeah.

13 THE WITNESS: That was about it. And then we tried,
14 with the finance team, with Mr. Mazagonwalla, to find out more.

15 THE COURT: When you asked him, "Do you have a
16 personal relationship," I guess what I'm trying to figure out
17 is what were you driving at?

18 THE WITNESS: I was driving at the fact, as I said,
19 that in Boston in the technology space it's a small community.
20 I came out of the space. I know a lot of people, some of them
21 I have personal relationships with. And also the fact that the
22 principals were Pakistanis I assumed maybe he had --

23 THE COURT: Some association?

24 THE WITNESS: -- some association, and he said, "No."

25 THE COURT: Were you concerned -- were you just trying

1 to figure out if he had some nonprofessional relationship in a
2 way that he knew them, or were you concerned about too close of
3 a relationship?

4 THE WITNESS: I was concerned about too close of a
5 relationship. We have a conflict of interest -- as a
6 charitable organization, conflict of interest is very
7 important. So, for us we are dealing with not shareholders'
8 money or our money, we're dealing with other people's money.
9 So, how we manage the fiduciary responsibilities is really
10 important. So, it was more of -- I mean, I would say at the
11 time I didn't have a real strong suspicion or anything. I just
12 had normal questions. It was, like, "If you have something,
13 then disclose it." I mean, all of us have to sometimes. I
14 have to do a disclosure --

15 THE COURT: Sure.

16 THE WITNESS: -- of a relationship that I have with
17 companies that we give to.

18 THE COURT: I'm familiar with the form. I did some
19 nonprofit work. It's obviously the case with United Way.

20 THE WITNESS: Mm-hmm. And I would say that for the
21 United Way the standard of that form was invented by the United
22 Way system.

23 THE COURT: No kidding.

24 THE WITNESS: So, we take that very importantly.

25 BY MR. DAVIS:

1 Q. All right. So, looking at Mr. Alrai's response at the
2 bottom you can see he says, "Hi, Mohammad," and then going back
3 to the last page can you read his first two paragraphs there?

4 A. "Please provide the following information, even though I
5 have most of it as a part of RFP process, but I would like to
6 get a DigitalNet profile that I or Pat can share with the
7 United Way team members. Please have it to me by Tuesday the
8 latest. Also, I did contact Aziz today. Thanks for setting it
9 up. I would like him to be here starting next week so we can
10 begin a smooth transition. It is imperative that the
11 organization sees a positive change from day one. No
12 exceptions."

13 Q. Okay. So, once again, Mr. Alrai is sending an email off
14 to Mohammad in a matter that you're involved with, right, or to
15 info@digitalnet?

16 A. Yeah. I don't know if it was Mohammad. I don't recall
17 now who it was addressed to, but it was still to DigitalNet. I
18 know that.

19 Q. So, let's go to the top now, very top of the email,
20 beginning of it.

21 A. It had Mohammad.

22 Q. You seek out a bunch of information here, right?

23 A. Yeah.

24 Q. The very first page.

25 MR. HARRINGTON: Can you tell me the exhibit number?

1 MR. DAVIS: The exhibit number is 613.

2 MR. HARRINGTON: Thank you.

3 Q. All right. So, you have some back and forth between Imran
4 and you, and Mohammad is there on the first page? Do you see
5 that? See the information in red below, right?

6 A. Yes.

7 Q. Let's go to the second page. Okay. And this is, again,
8 from DigitalNet support to Mr. Alrai on Monday, February 25th.
9 This is page 10161. The question is, "Can I get the
10 principals' bio and location," right? You had asked for that?

11 A. (Witness nodded).

12 Q. And what three names are identified there?

13 A. Jawad Munawar, M. Ahmad Chaudhary, Ahmad Hassan.

14 Q. And going to Jawad Munawar, DigitalNet is telling Imran
15 that Mr. Munawar has over 20 years' experience, correct?

16 A. Yes.

17 Q. And serves as a CEO and manages the Middle East operations
18 and is currently based in UAE; is that right?

19 A. That's correct.

20 Q. And at any point did Imran Alrai tell you that he had a
21 brother named Jawad?

22 A. No.

23 Q. All right. And then the next person is M. Ahmad
24 Chaudhary, right?

25 A. Yes.

1 Q. And that says, "Over 30 years of management experience in
2 diverse industries, including healthcare," and his various
3 degrees, and he's responsible for business development and
4 operations and is currently based in the U.S., right?

5 A. Yes.

6 Q. Did Mr. Alrai ever tell you that that was his father's
7 name?

8 A. No.

9 Q. And did he ever tell you that what we're talking about
10 there is Mac?

11 A. I understood M. Ahmad Chaudhary was called "Mac."

12 Q. All right. So, you assume that's Mac we're talking about,
13 right?

14 A. Yes.

15 Q. And then Mr. Ahmad Hassan, over 15 years of business and
16 management experience, master of science. He manages
17 operations in South Asia, right?

18 A. Yes.

19 Q. Did Mr. Alrai ever tell you that Ahmad Hassan was his
20 brother-in-law?

21 A. No.

22 Q. And, as you look at those three names, do you have any
23 inkling that those people are related?

24 A. I would have assumed they were not.

25 Q. And do you have any inkling that they're related to Imran

1 Alrai?

2 A. At the time, no. Almost up until now, no.

3 Q. So, let's go to the next page. "Please provides the DUNS
4 identifier for the company." What did you get back there on
5 that request at the top of the page about the DUNS number?

6 A. I think that the response -- I'm trying to think. It
7 says, oh, they don't have one because they are a privately held
8 company.

9 Q. So, due to its private status, zero debt and no UCC
10 filings, right?

11 A. Mm-hmm. Yeah.

12 Q. And then they say, "As a proof of our financial strength
13 and good credit standing we are attaching a reference letter
14 from our bank." Right?

15 A. Correct.

16 Q. And you, in fact, did get a reference letter from
17 Pentucket Bank, right?

18 A. Yes, we did.

19 Q. And then you can see the locations listed.

20 MR. DAVIS: Can you highlight that, please, Ms. Sheff.

21 Q. And those list 300 Brickstone Square in Andover, Mass.,
22 right?

23 A. Yes.

24 Q. And then Marghzar Colony, Lahore Pakistan, Number 162,
25 right?

1 A. Yes.

2 Q. And then 68 Discovery Gardens in Dubai, UAE, right?

3 A. Yes.

4 Q. And then it says under that, "Please confirm U.S.
5 equipment and staffing," right?

6 A. Yes, it does.

7 Q. Now, have you asked for that, a confirmation of U.S.-based
8 equipment and staffing?

9 A. I don't know so much about equipment. We had asked about
10 staffing.

11 Q. All right. And can you explain why that mattered to you?

12 A. We knew that they were a company with Pakistani
13 principals, and so we were trying to assess if the staffing was
14 going to be off the U.S. shore or what was in the U.S. and did
15 they have presence in the U.S.

16 Q. Okay. So, let's see what you got back. Do you see under
17 your sentence the information provided?

18 MR. DAVIS: Can you highlight where it begins,
19 "Currently."

20 A. Yes.

21 Q. What does that say, please?

22 A. "Currently there are 23 associates in the U.S. All sales,
23 marketing, HR, data center, infrastructure, telephony and
24 related services are housed in the U.S. for all U.S.
25 customers."

1 Q. So, nothing there about programmers in Pakistan, right?

2 A. No.

3 Q. Okay. And then under the next part it says, "Please
4 provide two to three customers' references, U.S. based,"
5 correct?

6 A. Yes.

7 Q. And you definitely wanted those references, right?

8 A. We did.

9 Q. All right. And you got three references, right?

10 A. We did.

11 Q. Okay. And who are they?

12 A. K. Salman Khan, IT Director Barneys New York; Steve R.
13 Anderson, CEO, AISA Systems Corporation; Nabil Ejaz, IT
14 Director Abilities, Inc.

15 Q. Had you ever heard of AISA Systems Corporation in Fairfax,
16 Virginia?

17 A. No.

18 Q. But you were interested in the references because you were
19 going to be directly involved in that, right?

20 A. I called the references.

21 Q. You also got some revenue information, right?

22 A. I did.

23 Q. And what did that say?

24 A. "United Way's managed IT services contract will represent
25 approximately 9 percent of DigitalNet's total annual revenue."

1 And then the question was, "What percent of revenue does
2 DigitalNet's top five customers represent with and without the
3 United Way?" And the answer was, "United Way's managed IT
4 service contract will represent approximately 5.093 percent of
5 our global revenues. This contract will represent
6 approximately 9 percent of DigitalNet's U.S. based revenues."
7 And then it says, "Our top five customers represent
8 approximately 20.78 percent of our total global revenues. Top
9 five including the United Way (4 plus UW) will represent
10 approximately 21.22 percent of our global revenues."

11 Q. Okay. And next page. Okay. So, is it fair to say that,
12 after getting this information, you thought that DigitalNet was
13 actually a legitimate IT services vendor?

14 A. I thought that they were a qualified IT services vendor by
15 our standards.

16 Q. And did you have any idea that DigitalNet was Mr. Imran
17 Alrai, your IT chief's company run out of his home office on a
18 computer in Windham, New Hampshire?

19 A. No.

20 Q. All right. So, let's talk about the references. Did you
21 have a script for checking references?

22 A. I did.

23 Q. And how did that script go?

24 A. It asks about, like, who was -- you know, what was the
25 company's relationship with DigitalNet, how long had they been

1 in business with them, what kind of services did they get and
2 were they satisfied, and did they have any suggestions for
3 improvement, and, lastly would they be willing to talk to us
4 about transition.

5 Q. Okay. And did you call them fairly quickly after getting
6 those references?

7 A. I did.

8 Q. All right. And why was that?

9 A. Well, we were trying to start up the work. The company
10 that we had doing our network infrastructure support had
11 actually exceeded the past due date.

12 Q. So, you wanted to move on this, right?

13 A. We did.

14 Q. And did you let Mr. Alrai know that you were going to be
15 calling these references?

16 A. I did.

17 Q. And did he have anything to say about that that you
18 remember?

19 A. Not that I remember.

20 Q. Okay. So, did you end up talking directly to the first of
21 them, Mr. Khan?

22 A. I did.

23 Q. And did you keep notes of that and maintain them as United
24 Way records?

25 A. I did.

1 Q. And showing you Government Exhibit 401, the first page of
2 that, I think it's the first page, do you recognize that as
3 your notes from your reference check with Mr. Khan?

4 A. I do.

5 MR. DAVIS: Your Honor, I move to admit Exhibit 401
6 and strike the ID.

7 MR. HARRINGTON: No objection, Judge.

8 THE COURT: It's admitted.

9 (Government's Exhibit No. 401 received into evidence)

10 Q. And is this document dated March 1, 2013 in your
11 handwriting?

12 A. Yes, it is.

13 Q. And what was your purpose in checking this reference?
14 What were you trying to accomplish?

15 A. I was trying to assert if the company, what kind of
16 relationship they had with DigitalNet, and were the services
17 delivered to them appropriately.

18 Q. Okay. And so, did you actually reach Mr. Khan on the
19 telephone?

20 A. I did.

21 Q. And did you recognize Barneys, New York as somewhere you
22 knew?

23 A. Absolutely.

24 Q. All right. And so, using the notes as appropriate, can
25 you recount your conversation with Mr. Khan?

1 A. Yeah. We talked about what services did they use. He
2 told me what they were. He said that -- I told him what
3 services we were looking for. He said that he thought that
4 they would be -- DigitalNet would be a perfect match for us.
5 He said that he had four years of experiences with them, that
6 they were very happy with them.

7 Q. You said "four years"?

8 A. Four years. It looked like I underlined that, so I say
9 that was four years. Very happy. He told me what services
10 they have had. We talked about areas, what weaknesses or where
11 they could improve. He said that they weren't huge but that
12 they had very good individuals, good customer service and was
13 very responsive, the people were very knowledgeable. And then
14 I asked them if we could talk, if Imran could talk to them
15 about their experience during the transition.

16 Q. Why did you want or why did you talk about having
17 Mr. Alrai talk to Mr. Khan in this reference?

18 A. My conversation was around references to ensure that they
19 were -- that they had customers in the U.S. and that they were
20 a reputable company, what Mr. Alrai's possibly need was a more
21 technical view about, like, what things came up, and also I was
22 trying to connect him with others in the field.

23 Q. Okay. And Mr. Khan told you he was the IT Director and
24 Infrastructure Manager at Barneys; is that right?

25 A. That's what he said.

1 Q. And you called the number you had been given, a 212
2 number, to call him?

3 A. Yes, I did.

4 Q. Okay. Let's look at the next page. Did you also call the
5 second reference on the same day, Mr. Nabil Ejaz?

6 A. I did.

7 Q. And did you call that same number you had been given, the
8 516 number at the top of the page?

9 A. I did.

10 Q. And did he purport to be the IT Director at Abilities, New
11 York?

12 A. Yes, he did.

13 Q. And can you summarize your conversation with Mr. Ejaz?

14 A. He said that he had a two-year relationship with
15 DigitalNet, happy with the services, that they had helped him
16 to bring down his budget, that he had four people on site --
17 well, he had had four people, and now DigitalNet had helped
18 them to really rationalize their staffing. He said that the
19 user experience was excellent, and that DigitalNet was experts
20 in their field. He did say that there was a little initial
21 difficulty moving to an outsource model, but he thought that
22 they were very good and the principals were very good.

23 Q. And so, did you regard these first two references as very
24 positive for DigitalNet?

25 A. Absolutely. Yeah.

1 Q. All right. Now, what do you remember doing about Steve
2 Anderson of AISA?

3 A. Yeah. We could not find my notes, but I remember having a
4 conversation with Mr. Anderson and basically got kind of the
5 same types of references.

6 Q. Okay. Do you recall any information about whether he
7 traveled and was available?

8 A. Yeah. I mean, I know that the reason why -- we had a hard
9 time setting him up, because he was the CEO of AISA and that he
10 was not available easily, but I do remember having a
11 conversation with him.

12 Q. And, again, it was positive about DigitalNet?

13 A. Yes.

14 Q. Okay. Now, once you got the three references, did you
15 speak to Mr. Alrai about it?

16 A. I did.

17 Q. And what did you tell him, and what happened?

18 A. I told him that the references were really great and that
19 we can proceed forward.

20 Q. Okay. Did you also tell him that any of the references
21 were willing to speak with him further?

22 A. I did. I told him all of them were willing to speak with
23 him.

24 Q. And please speak up.

25 A. All of them were willing to have a conversation with him.

1 Q. And what did he say about that?

2 A. I don't remember exactly, but I know that he said that he
3 would contact, you know, he'd follow up.

4 Q. All right. Now, soon after that, in March of 2013, did
5 you have an in-person meeting at United Way with someone from
6 DigitalNet?

7 A. I did.

8 Q. All right. And tell the Court how that came about.

9 A. It was a courtesy for a vendor that was now our largest
10 vendor relationship outside of our healthcare plans, and so I
11 asked to have one of the principals come and see me.

12 Q. And who did you ask?

13 A. Imran.

14 Q. And you asked for one of the principals?

15 A. Well, Mac Chaudhary, who was the U.S.-based person.

16 Q. Okay. And so, what happened?

17 A. I had a meeting with him.

18 Q. All right. And how did that -- where did the meeting
19 occur?

20 A. In my office.

21 Q. And do you remember the time of day, what day of the week
22 it was?

23 A. No, I don't remember the day of the week. I remember it
24 was, of course, during the day.

25 Q. Right. And do you remember any efforts you made to find

1 it on your calendar?

2 A. I looked back to see it on my calendar. I could not find
3 it on my calendar, but I'm not surprised at that. My memory is
4 I believe Mr. Alrai said he was coming into the office as the
5 team kind of got onboard, and that he would just, you know,
6 sort of bring him in as I had time during that day.

7 Q. So, Mr. Alrai offered to bring in this principal from
8 DigitalNet to meet with you?

9 A. Yes.

10 Q. Okay. And do you remember how the meeting began?

11 A. I mean, yes. I mean, I know that it was cordial, that I
12 would have welcomed them onboard, said that we were looking
13 forward to working with them, talked a little bit about like
14 what they were going to do and how the startup would happen.

15 Q. All right. How many people came into your office for that
16 meeting?

17 A. Well, just one, with Mr. Alrai coming in to bring him in.

18 Q. So, Mr. Alrai brought in Mr. Chaudhary?

19 A. Mm-hmm.

20 Q. Yes?

21 A. Yes.

22 Q. Okay. And did Mr. Alrai stay after that?

23 A. I don't think so.

24 Q. Okay.

25 A. In fact, I'm pretty sure no.

1 Q. So, he left just you and Mr. Chaudhary to talk?

2 A. Yes.

3 Q. Okay. How long did the meeting last?

4 A. Maybe a half hour.

5 Q. Thirty minutes?

6 A. Mm-hmm.

7 Q. And did you explain any -- your desire about the timing of
8 getting started and any issues you had?

9 A. I would have, because we had had some -- for whatever the
10 reason, I can't recall why, but DigitalNet was supposed to
11 start a few days earlier. They did not, and so it was a little
12 bit of concern about, like, is this an omen of things to happen
13 for the future. And so, we would have talked about that.

14 Q. So, DigitalNet had not come and started quite as quickly
15 as you had hoped?

16 A. Yeah. I can't remember why, but --

17 Q. Okay. So, let's talk about Mac, the person in your
18 office. How old was he?

19 A. I would have guessed maybe in his 50s.

20 Q. Okay. And describe him further. How did he look?

21 A. He was of South Asian descent, tallish. That's my only
22 memory, basically.

23 Q. Do you remember his hair?

24 A. Short, very short, I think, or balding maybe.

25 Q. Sorry?

1 A. Potentially balding, but short.

2 Q. And do you remember his build, his just size, body size?

3 A. Yes. Not huge, but, you know, a regular-sized male.

4 Q. Okay. And how was his English?

5 A. Good.

6 Q. Any problems communicating?

7 A. No.

8 Q. Would you have described him as having a thick accent?

9 A. No.

10 Q. Good English?

11 A. Good English.

12 Q. Okay. And how was his fluency in IT from what you could
13 tell?

14 A. We didn't talk -- you know, I'm not a technical person.
15 We wouldn't have talked details about, like -- but he seemed,
16 you know, appropriate for a business development person,
17 understood what we needed and was there to deliver.

18 Q. Okay. And did you understand that he was business
19 development for DigitalNet?

20 A. I thought -- yes. That was his title.

21 Q. Was Vice President for Business Development?

22 A. Yes.

23 Q. Okay. And did you talk to him about DigitalNet's
24 business?

25 A. Probably a little bit. Well, definitely we talked about

1 DigitalNet expanding.

2 Q. Okay. And did he say where they had existing customers in
3 the U.S. for DigitalNet?

4 A. Primarily --

5 MR. HARRINGTON: Objection, Judge. Hearsay.

6 THE COURT: Did he say. She can answer yes or no.
7 Hold on. Ask it again.

8 Q. So, did you ask him about whether DigitalNet had customers
9 in the U.S.?

10 A. Yes.

11 Q. And did he tell you that he did?

12 A. Yes.

13 Q. And did he say where they were?

14 MR. HARRINGTON: Objection, Judge. Hearsay.

15 THE COURT: I can't imagine he's offering it for its
16 truth. He's offering it because it's a lie, right?

17 MR. DAVIS: Correct.

18 THE COURT: He says it's a lie. Go ahead. Overruled.

19 Q. So, you can answer.

20 A. Oh, okay. Yes, he said that they had a number of
21 customers in the U.S.

22 THE COURT: It's your client. Everything he says is
23 an admission, right?

24 MR. HARRINGTON: She's talking about another
25 individual.

1 THE COURT: Okay.

2 MR. HARRINGTON: And I would say this, Judge: I
3 understand the government is proposing this as a misstatement
4 or a falsity.

5 THE COURT: Yes.

6 MR. HARRINGTON: But what they're offering it is to
7 show that is a statement that was made, that it was, in fact,
8 made. In that sense it's offered for the truth of that, not
9 necessarily for the information, if you follow what I'm saying.

10 THE COURT: I know, but she can say he made a
11 statement. That's not hearsay. And the content of the
12 statement is not offered for its truth, so how could it be
13 hearsay?

14 MR. HARRINGTON: I think it's being offered for the
15 truth of the matter asserted, which is that there are different
16 companies. I think the fact that the government is
17 characterizing it as a false statement doesn't take it out of
18 the hearsay rule.

19 THE COURT: It's not -- okay. So, what was the
20 response?

21 THE WITNESS: That they had U.S. customers.

22 THE COURT: That they had U.S. customers. Okay. Now,
23 the truth -- he's not offering it to prove that they have U.S.
24 customers.

25 MR. DAVIS: Correct.

1 THE COURT: He's not offering it for its truth, so
2 it's not hearsay. Overruled.

3 BY MR. DAVIS:

4 Q. And to be clear, Ms. Latimore, the person sitting in your
5 office at that moment was not Imran Alrai, correct?

6 A. No, he was not.

7 Q. Whoever he was, he was not the defendant, right?

8 A. He was definitely not the defendant.

9 Q. But the defendant had brought him in and introduced you,
10 correct?

11 A. Yes.

12 Q. All right. So, did Mac, the person in your office, tell
13 you any more about DigitalNet customers in the Boston area?

14 A. We talked about Boston-area customers, and my
15 understanding is we were the only one, and we talked about why
16 they were in -- why they had their headquarters here, and he
17 said, "Because we're expecting to expand in the Boston area."

18 Q. All right. And you knew about the Andover address; is
19 that right?

20 A. I did.

21 Q. And did he say how long DigitalNet had been in business,
22 how long they had had clients?

23 A. I don't remember that specifically, but reading from the
24 documents that we just showed from the references, at least
25 four years was what one of the references said.

1 Q. All right. But you don't recall that exactly?

2 A. I don't remember having a conversation about how long.

3 Q. Did you recall the matter of whether United Way would be a
4 reference for DigitalNet? Did that come up?

5 A. Yes.

6 Q. What happened there?

7 A. We said that we were just starting and that we weren't
8 going to be -- we couldn't be a reference.

9 Q. Okay. Did you ask about whether the company was hosted
10 overseas, DigitalNet?

11 THE COURT: Was what overseas? Hosted?

12 MR. DAVIS: Hosted.

13 A. I don't remember specifically asking him, but in the
14 information that was supplied to me we were under the
15 understanding that we would be hosted in the U.S. As you saw
16 from the letter from Mohammad, one of the answers to my
17 question was, "What are your assets in the U.S.?" And he said,
18 "All U.S. customers are hosted and serviced in the U.S."

19 Q. And did the person sitting in your office --

20 THE COURT: What does "hosting" mean?

21 MR. DAVIS: I think it means having servers.

22 THE WITNESS: Having servers in the U.S.

23 THE COURT: Oh, in the technical sense.

24 THE WITNESS: In the technical sense, and that we
25 would have servers in the U.S.

1 Q. Did at any point the man sitting in your office say that
2 he was related to Imran Alrai?

3 A. No.

4 Q. Okay. And would that have given you pause?

5 A. It would have stopped everything.

6 Q. All right. Okay. And do you recall whether you talked to
7 Mr. Alrai later about how the meeting with Mac had gone?

8 A. I don't specifically recall, but I'm sure I would have
9 said something.

10 Q. All right. And do you recall how the meeting with Mac
11 ended?

12 A. I thought it was a very, you know, positive, cordial
13 conversation.

14 Q. And, to your knowledge, did you ever see that man again?

15 A. I don't know if I saw him again. I do remember visiting
16 their offices briefly in Andover, and I'm not sure who let me
17 in.

18 Q. So, you might have seen him when you went to Andover?

19 A. Could have.

20 Q. Sorry?

21 A. Could have.

22 Q. Is there any other time you can think of that you saw that
23 man?

24 A. I don't recall seeing him.

25 Q. All right. So, let's go to the visit --

1 THE COURT: Hold on a second, Counsel. I just need a
2 second. I, obviously, missed an important part of that
3 testimony. I just need to review it for a second to see if I
4 have any questions about it, because I clearly missed the
5 point.

6	(Pause)
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7 THE COURT: Yeah. This was a meeting she looked for
8 on her calendar. She couldn't find it. Okay. Thank you,
9 Counsel.

10 MR. DAVIS: Does the Court have any questions?

11 THE COURT: No. I just missed an important part of
12 that, and now I get it.

13 Q. Okay. Now, Ms. Latimore, speaking of going to the Andover
14 office, did that happen soon after the meeting with Mac
15 Chaudhary?

16 A. Yes, within weeks, you know, a couple of weeks. I had not
17 gone specifically to -- I mean, I told them I was coming, but I
18 went for some other purpose to Andover, so I stopped by.

19 Q. All right. So, you were actually going to Andover for
20 personal reasons?

21	A. Mm-hmm.
----	------------

22 Q. All right. And so, do you remember speaking in advance
23 with Mr. Imran Alrai about your visiting the Andover office at
24 Brickstone Place?

25 | A. I don't know how else I would have communicated it, so I

1 don't remember specifically about that, but I do -- but it had
2 to have been through Mr. Alrai.

3 Q. All right. And so, it had to be through Mr. Alrai why?

4 A. Because there was no one else in contact with DigitalNet
5 at that point.

6 Q. Okay. And so, what would you have told Mr. Alrai to make
7 that meeting happen?

8 A. That I was going to be --

9 MR. HARRINGTON: Objection. She said she didn't even
10 recall having the discussion.

11 THE COURT: Yeah, but she can tell me what she would
12 have -- it depends on how deep you get, but if it's very
13 superficial she can tell me what she would have discussed.
14 That's okay. Go ahead. Overruled.

15 A. I would have just said that I wanted to visit at a certain
16 day, time, and that I would just see the office.

17 Q. All right. And so, do you recall any discussion with
18 Mr. Alrai where he told you that there's not much to see there?

19 A. We talked -- I don't know who --

20 THE COURT: Go ahead.

21 A. Yes. I knew that there wasn't much to see at the office,
22 and I know that when I spoke to Mr. Alrai and Mr. Chaudhary
23 that most of their staff would be in the field.

24 Q. All right. Why did you want to go to the Andover office?

25 A. Just because I just wanted to see the office. I mean, I

1 just wanted to see the establishment.

2 THE COURT: Why did you want to see it?

3 THE WITNESS: Well, it's sort of good practice to see
4 if there was -- you know, what was it. I mean, I knew that
5 they were recently established in Massachusetts, and so, like,
6 what was it? And it was just an office building.

7 THE COURT: Is that something you do with all your
8 vendors?

9 THE WITNESS: Yeah, pretty much. I mean, normally the
10 vendors invite me, so I don't have to ask to go.

11 Q. But you had not been invited here, correct?

12 A. No, no.

13 Q. All right. And did you go alone?

14 A. I did.

15 Q. So, did you drive to Andover?

16 A. I did.

17 Q. What happened?

18 A. Saw the office, saw that they had a name on the tombstone
19 and looked at the office briefly and left.

20 Q. You said they had a name on a tombstone?

21 A. Well, on the -- I call it a "tombstone," you know, in the
22 lobby.

23 Q. You saw the name "DigitalNet" there?

24 A. Yeah.

25 Q. And do you know who you met with for DigitalNet?

1 A. I don't remember who it is -- was at that point. I
2 assumed it was Mac Chaudhary, but I don't know that, because
3 that's the only -- I believe up until I knew that Mr. Alrai was
4 associated with DigitalNet that I only met five people from
5 DigitalNet.

6 Q. Okay. And so, do you think it was one of those five?

7 A. I knew it wasn't most of those five.

8 Q. Okay. And you say five people. Can you just clarify for
9 the Court who were the five people you met for DigitalNet?

10 A. So, I met Mr. Chaudhary, I met Kal Wahbe, I met our three
11 on-site folks, who were Nadeem, Jasmin and Idir. The three
12 people weren't there all at the same time. There were two of
13 them at different times, the on-site folks.

14 Q. All right. And those are the only people you ever met
15 with DigitalNet?

16 A. Those were the only people I ever met.

17 Q. All right. And do you think that one of those people was
18 at Andover at the office when you came to visit that time?

19 A. Yes, and I know that it wasn't the on-site people.

20 Q. And you know it wasn't who? Sorry?

21 A. The on-site people. I know it wasn't Nadeem or Idir.

22 Q. And was Mr. Imran Alrai there?

23 A. No.

24 Q. Okay. And so, what happened at that meeting?

25 A. Nothing. I just walked in, saw the office, said, "Hello."

1 There was not anyone, basically, there. It was an office.

2 Q. Okay. And after that time did you ever go back to the
3 Andover, Massachusetts headquarters at DigitalNet?

4 A. No.

5 Q. Why not?

6 A. There wasn't any reason to go there. I know that Imran
7 had a number of meetings with their team in our offices. I
8 would see them around, and sometimes I would pop my head in and
9 say, "Hello, but that would be about it."

10 Q. And when you say "their team," do you mean Nadeem and then
11 either Idir and after that Jasmin?

12 A. Yes, but I was thinking more about Nadeem, Idir and Kal --
13 and Kal. There may have been others, but those are the ones
14 that I remember.

15 Q. Okay. You talked about Kal. Did you meet Kal at United
16 Way?

17 A. Yeah, I did.

18 Q. And how many times?

19 A. I can't really tell you, but a number of times in the
20 beginning.

21 Q. All right. And after the beginning did you not see him at
22 United Way much?

23 A. I saw him initially in meetings with Imran or walking
24 through the halls, and then at some point, and I don't remember
25 when, he wasn't around as much, but I didn't expect him to be

1 around as much, because he was supposed to be the IT
2 architecture person.

3 Q. Okay. Did you know where Kal was based after that?

4 A. Specifically, no. In the U.S., yes.

5 Q. And why do you say he was in the U.S.?

6 A. Because when I met him he said he was a U.S. employee of
7 DigitalNet, and I do remember having conversations with Imran
8 about how fortunate it was that we had someone of Kal's caliber
9 who was available to us.

10 Q. And when you say "available to us," are you referring to
11 in the U.S., or what do you mean?

12 A. In the U.S. Available to us as someone who we could call
13 but also available to us in the U.S.

14 Q. All right.

15 A. And he was on site.

16 Q. And did Mr. Alrai ever tell you he was actually in the
17 Middle East?

18 A. No. I didn't know he was in the Middle East.

19 Q. All right. So, moving forward, did United Way begin to
20 sign other contracts with DigitalNet?

21 A. Yes, we did.

22 Q. And was one of those a telephony contract for the
23 telephone service?

24 A. Yes.

25 Q. And whose idea was that of putting DigitalNet in charge of

1 the telephone service?

2 A. So, if you go back to Imran's proposal for the IT
3 environment, that was a part of that discussion, that we would
4 over time migrate a number of our -- the IT services that we
5 have with other people to DigitalNet.

6 Q. Okay. And did Mr. Alrai say anything about DigitalNet's
7 experience in managing telephones?

8 A. I was told that they managed a number of customers'
9 telephone systems, and that one of the reasons why we would
10 want to go with them is their expertise in working with other,
11 you know, telephone providers and other companies, and also
12 that we would gain some cost efficiencies.

13 Q. Some cost efficiencies?

14 A. Mm-hmm.

15 Q. Okay. So, did you then negotiate a telephone contract
16 with DigitalNet?

17 A. Mr. Alrai did. Mm-hmm.

18 Q. Sorry?

19 A. Mr. Alrai did.

20 Q. All right. And showing you Exhibit 617, do you recognize
21 that as an email from you to Imran at the top regarding terms
22 of the telephony contract in August of 2013?

23 A. Yes.

24 MR. DAVIS: And, your Honor, I move to admit 617 and
25 strike the ID.

1 MR. HARRINGTON: No objection, Judge.

2 THE COURT: It's admitted.

3 (Government's Exhibit No. 617 received into evidence)

4 Q. In here are you asking various questions to Mr. Alrai, one
5 last question, "What is the disconnection fee"? Do you see
6 that at the bottom?

7 A. At the bottom, yes.

8 Q. And the next page, please. So, this is back and forth
9 between you and him about the telephone contract, right?

10 A. Yes.

11 Q. All right. And eventually did you sign that contract in
12 approximately August of 2013?

13 A. I did.

14 Q. And after that was DigitalNet fully responsible for United
15 Way's telephone service?

16 A. Yes, it was.

17 Q. All right. I want to just show you just some other
18 contracts, because we entered some contracts but not all.
19 Showing you first 300A for identification, that's a Managed IT
20 Services Agreement?

21 A. Mm-hmm.

22 Q. That's, actually, the first main one, February 20th of
23 2013, correct?

24 A. Yes, it is.

25 MR. DAVIS: And can we go to the signature page.

1 Q. And did you sign that for United Way?

2 A. I did.

3 Q. And did Mr. M.A. Chaudhary sign it for DigitalNet?

4 A. Yes.

5 MR. DAVIS: Your Honor, I move to admit 300A and
6 strike the ID.

7 MR. HARRINGTON: No objection, Judge.

8 THE COURT: Admitted.

9 (Government's Exhibit No. 300a received into evidence)

10 Q. A second contract is 301a, a statement of work for the
11 Thrive and Drive -- I'm sorry -- the Thrive and Five Drive
12 application hosting in 2016. Is this another contract with
13 DigitalNet?

14 A. Yes.

15 Q. And did you sign that for United Way?

16 A. I did.

17 MR. DAVIS: Your Honor, I move to admit 301a and
18 strike the identification.

19 MR. HARRINGTON: No objection, Judge.

20 THE COURT: It's admitted.

21 (Governments Exhibit No. 301a received into evidence)

22 Q. Showing you now 301B, that's a statement of work regarding
23 the Andar platform in August of 2015. Is this another project
24 with DigitalNet?

25 A. It's actually the website integration.

1 Q. This is actually the website project?

2 A. Mm-hmm.

3 Q. And, again, Mr. Chaudhary was identified as a principal?

4 A. Yeah.

5 Q. And did you enter into that statement of work with
6 DigitalNet?

7 A. I did.

8 MR. DAVIS: Your Honor, I move to strike the ID and
9 enter 301b in evidence.

10 MR. HARRINGTON: No objection, Judge.

11 THE COURT: It's admitted.

12 (Government's Exhibit No. 301b received into evidence)

13 Q. Lastly, 304A For Identification. Do you recognize that
14 item, Ms. Latimore?

15 MR. DAVIS: And can you go to the end?

16 A. Yes, I do.

17 Q. And this is signed in July of '16 and also signed by Mac
18 Chaudhary of DigitalNet?

19 A. Yes.

20 MR. DAVIS: Your Honor, I move to admit 304a and
21 strike the identification.

22 MR. HARRINGTON: No objection, your Honor.

23 THE COURT: It's admitted.

24 (Government's Exhibit No. 304a received into evidence)

25 Q. So, you signed a number of contracts with DigitalNet?

1 A. I did.

2 Q. And did they become your -- where did they rank in terms
3 of your outside vendors?

4 A. As I said before, they were the second highest paid of our
5 vendors.

6 Q. And what was the approximate annual spend on DigitalNet,
7 all told?

8 A. At the end of the day something like a million two or
9 three.

10 Q. A million two or a million three?

11 A. Mm-hmm.

12 Q. Okay. Don't say "Mm-hmm," please. Please say "Yes" or
13 "No."

14 A. Yes.

15 Q. All right. So, let's talk about supervising Mr. Imran
16 Alrai. He always reported directly to you, correct?

17 A. He reported initially for the first six months, I believe,
18 of his employment to Nancy Powers.

19 Q. But after that to you, right?

20 A. To me.

21 Q. Did he have a home office?

22 A. Yes, he did.

23 Q. And how did you know that?

24 A. Because when he came onboard he asked to work from home on
25 a couple of days a week, and one of our criteria is that you

1 have a place that you can work and equipment.

2 Q. And did you approve his request to work out of his home
3 office?

4 A. Well, yes, I guess. Nancy would have submitted it at that
5 point.

6 Q. Okay.

7 A. But I did do subsequent ones, yeah.

8 Q. I'm sorry?

9 A. I approved subsequent ones.

10 Q. Okay. So, how many days a week did he come into the
11 office?

12 A. He was there three days a week.

13 Q. And did that change over time?

14 A. Unofficially, yes.

15 Q. And what do you mean by that?

16 A. He started coming in to the office two days a week.

17 Q. And what days were those?

18 A. I don't really recall, but I think that they were Tuesday
19 and Thursday, but I don't know.

20 Q. And, as his supervisor, were you concerned about that?

21 A. Initially I was concerned that he was working from home
22 when I was not his supervisor, because he was a new employee in
23 a very complex space, but after time went on I was not as
24 concerned.

25 Q. Okay. Did you also know that he had a teaching job?

1 A. I did.

2 Q. And what was that and when was that?

3 A. I believe he was teaching throughout his tenure with us.

4 He taught at New Hampshire -- is it NHU?

5 Q. Southern New Hampshire University?

6 A. Southern New Hampshire University.

7 Q. Okay.

8 A. He talked about that.

9 Q. And was that approved by you?

10 A. Yes. I mean, as long as it did not interfere with his
11 time on the job. It was after work.

12 Q. Did he ever tell you that he was working for Robert Allen
13 Group?

14 A. No. I mean, he came from Robert Allen.

15 Q. But did he tell you that he continued to work for them for
16 18 months after he started with United Way?

17 A. No.

18 Q. All right. Do you remember an IT conference in California
19 for CIOs that he talked to you about?

20 A. Yes, I did.

21 Q. Tell the Court about that.

22 A. At some point we had talked about continuing education for
23 him, and he did not take -- I asked him to find things that
24 might be useful for him. At one point he told me that he was
25 going to California to a CIO conference. I offered to pay for

1 it. He said that it wasn't necessary, that he would pay for it
2 himself. And I authorized him to go to the conference.

3 Q. Okay. He said he was willing to pay for it himself?

4 A. Yes, he did.

5 Q. And, of course, Mr. Alrai was given vacation time; is that
6 right?

7 A. Yes.

8 Q. Did he take much vacation?

9 A. He didn't take much vacation. We had a number of
10 conversations about that he would lose vacation time if he did
11 not take it.

12 Q. All right. And did he give you any explanation for why he
13 wasn't using all of his vacation days?

14 A. He said that his job was very intense, there were always a
15 number of projects that he was working on, that he just didn't
16 know how he could fit in vacation. And we also extended his
17 vacation time I think probably 60 days beyond what we typically
18 would have so that he could take advantage of it.

19 Q. Okay. Throughout his time working with you did Mr. Alrai
20 continue to suggest DigitalNet as the IT vendor solution for
21 United Way?

22 A. Yes, he did.

23 Q. All right. So, showing you -- do you recall the PIP
24 database, the P-I-P database question?

25 A. Yeah.

1 Q. Showing you Exhibit 635, do you recognize that as an email
2 from Mr. Alrai to you in November of 2015 about the hosting of
3 the PIP database?

4 A. Yes.

5 MR. DAVIS: All right. Your Honor, I move to admit
6 635 and strike the ID.

7 MR. HARRINGTON: No objection, your Honor.

8 THE COURT: It's admitted.

9 (Government's Exhibit No. 635 received into evidence)

10 Q. Let's go back to the back of the email, the beginning of
11 it. This is an email from someone called Sunindiya?

12 A. Sunindiya.

13 Q. Sorry?

14 A. Sunindiya.

15 Q. And who is she?

16 A. She was a director in our community impact area.

17 Q. Okay. And can you just read the first part of her email
18 that she wrote.

19 A. She says, "Hi, Imran. Thanks for taking the time to read
20 through all the information on the PIP database for drive and
21 coming up with some hosting options. After our meeting, I met
22 with Carle, copied, Jesse, Gina and Jane and shared this
23 information. They wanted to know why you were suggesting going
24 with DigitalNet over Microsoft or Amazon, and I was wondering
25 if you could share the pros and cons. Jessie mentioned she may

1 have a possible connection at Amazon, and Mike had mentioned to
2 Carle and I that he thought Microsoft might be willing to do
3 this for a discounted cost."

4 Q. That's enough. So, Sunindiya is suggesting that Microsoft
5 or Amazon might be a good solution for this database and is
6 wondering why Imran suggested going with DigitalNet, correct?

7 A. Exactly.

8 Q. All right. And so, let's go to the first part in
9 Mr. Alrai's response. Can you read from at least the beginning
10 part of that response.

11 A. "Microsoft and Amazon are just hosting platforms. We need
12 to have a full support, maintenance, backup and disaster
13 recovery, compliance and security ECO system to host enterprise
14 applications. DigitalNet is a vendor that we use often, and we
15 know the quality of services they provide. Their cloud
16 services are built exclusively for businesses such as ours.
17 Another benefit is that we have their people already working
18 with us, so it is much easier to talk to them in real time to
19 work through an issue and resolve it fast. We will not have
20 the flexibility with other vendors, and you will have to
21 completely rely on them for all assistance. Internal UWMV IT
22 team will be of no use, unfortunately."

23 Q. Okay, that's enough. Thank you. All right. So, I want
24 to ask about invoices and budget. Did DigitalNet send United
25 Way invoices essentially monthly for you to pay?

1 A. Yes.

2 Q. And did you have conversations with a person named Dom
3 Pallaria about the DigitalNet invoices?

4 A. I have had.

5 Q. And who is Dominec Pallaria?

6 A. Currently, he's our controller, but he's always been in
7 charge of accounting.

8 Q. And did you -- you supervised Imran, correct?

9 A. I did.

10 Q. Did you also supervise Dom Pallaria?

11 A. At the time. Well, throughout the time of Imran's, and
12 then I don't currently.

13 Q. All right. And were you aware of friction between Dominec
14 Pallaria or at least involving Dominec Pallaria and the
15 DigitalNet invoices?

16 A. Yes.

17 Q. And what was that friction?

18 A. There were a couple of things. We did not -- before
19 DigitalNet we didn't do ACHs to corporations, and so Dom
20 questioned why would we do ACH for DigitalNet. Then Dom had a
21 number of questions about the detail nature of the -- or lack
22 of detail of the DigitalNet invoices.

23 Q. Okay. And so, that was an issue. Did that recur over the
24 years?

25 A. Yes, it did.

1 Q. Another topic is conflict of interest forms. Were you
2 familiar with those at United Way?

3 A. I ran the conflict of interest process, yes.

4 Q. And can you describe it and why it was important?

5 A. It's important, as I previously stated, because we are
6 funded by donors, and those donors have a right to expect that
7 we are using their money in the best way and that we are
8 exercising appropriate fiduciary responsibility toward them.
9 So, we as our system and then as our United Way, in particular,
10 did an annual conflict of interest form to ensure that there
11 was no undue influence of an employee or volunteer or someone
12 else associated with us as we disburse the funds that we had
13 responsibility for.

14 Q. And, to your knowledge, did Mr. Alrai, the person you
15 supervised, ever make a disclosure on a conflict of interest
16 form?

17 A. I know he did not.

18 Q. All right. And did you ever talk to him about the
19 conflict of interest forms and relations with vendors, say?

20 A. We've had various conversations with them, because one of
21 the pieces, as I said, because DigitalNet was the second
22 largest relationship we had, a small company, and we had had
23 conversations about the previous vendor, CRAIN, and how the
24 perception was that some members of our staff was too close to
25 them. So, yes, we did have conversations.

1 Q. And any issues from that conversation when you spoke to
2 Mr. Alrai?

3 A. No. Him just acknowledging that he was aware of the
4 issues, that you could get too close to a vendor, and that we
5 could not allow that to be a perception.

6 Q. And did he ever have any questions of you about that
7 conflict of interest policy or process?

8 A. No.

9 Q. Okay.

10 THE COURT: Are you done with that issue?

11 MR. DAVIS: Yes.

12 THE COURT: Can I inquire?

13 MR. DAVIS: Sure.

14 THE COURT: A couple of questions about that. What
15 personnel were required to fill out the form? I assume
16 directors. Directors, officers, all employees?

17 THE WITNESS: Every employee.

18 THE COURT: Every employee?

19 THE WITNESS: We do 100 percent every employee every
20 year.

21 THE COURT: Okay.

22 THE WITNESS: And we report to the Audit Committee.

23 And we also try to get 100 percent of all of our volunteers.

24 We don't necessarily get 100 percent of our volunteers, but we

25 typically get close to 90 percent of all volunteers to complete

1 them, because we harass them until they do.

2 THE COURT: Been there. It was your job to execute
3 this program?

4 THE WITNESS: To execute -- yes, it was my ultimate
5 responsibility.

6 THE COURT: Who assigned you that task?

7 THE WITNESS: The Audit Committee.

8 THE COURT: And you may or may not have an answer to
9 this, I don't know, but I'm going to ask you. Is it your
10 understanding that that was just a matter of United Way policy,
11 was it a requirement of federal law, was it a requirement of
12 Commonwealth law? What was your understanding, if you have
13 any?

14 THE WITNESS: My understanding is that it's a good
15 practice and it's a recommendation, you know, with the state,
16 with the Attorney General, but it is not a requirement. But it
17 is a requirement to be a United Way member, a part of the
18 federation. We on an annual basis certify that we do a
19 conflict of interest.

20 THE COURT: Those forms, are they filed under -- are
21 they required to be notarized or anything like that?

22 THE WITNESS: No, they are not notarized. You mean
23 the actual individual forms?

24 THE COURT: Yes.

25 THE WITNESS: No, they are not notarized. We are

1 counting on the person saying -- there is a statement at the
2 end that says, "To the best of my knowledge, I have no
3 conflicts," or, "I've disclosed all the conflicts." And then
4 we then report that to our Audit Committee. We take great
5 pride in reporting 100 percent completion by every employee,
6 and then we tell them who on the volunteers, key volunteers in
7 particular, that we do not have, and then we go to the board
8 and disclose to the board the same information.

9 THE COURT: The Audit Committee does or you do?

10 THE WITNESS: Well, the Audit Committee does a report
11 to the board, which typically the CFO would do.

12 THE COURT: Are you a member of the Audit Committee by
13 virtue of that position?

14 THE WITNESS: Not anymore.

15 THE COURT: I see.

16 THE WITNESS: At the CFO level I was. I was a
17 staff -- I wouldn't say member. I was a staff.

18 THE COURT: Thank you.

19 THE WITNESS: Thank you.

20 MR. DAVIS: Just one follow up on that, Judge.

21 Q. Do you know, Ms. Latimore, whether the conflict of
22 interest disclosures are required to be disclosed on the 990,
23 the IRS 990 form?

24 A. Yes. There is a statement do you do them, yeah. Mm-hmm.

25 Q. Okay. All right.

1 THE COURT: And that's sort of exactly what I was
2 wondering about, the 990, and I don't know the answer to the
3 question of whether that's just information gathering or if
4 there is some type of penalty or sanction for not having full
5 compliance with that. I don't know the answer. Regardless,
6 it's helpful for me to understand. Thank you.

7 Q. Let me show you another exhibit, Exhibit 628, regarding
8 the RFP for the website. We've talked previously about the
9 website contract. Do you see 628?

10 A. I do.

11 Q. And it's an email from you -- I'm sorry -- from Mr. Alrai
12 to you with the RFP for the website contract, correct?

13 A. Yes.

14 MR. DAVIS: Your Honor, I move to admit 628 and strike
15 the ID.

16 MR. HARRINGTON: No objection, Judge.

17 THE COURT: It's admitted.

18 (Government's Exhibit No. 628 received into evidence)

19 MR. DAVIS: And can we see the attachment, please.

20 Q. All right. So, that's the request for proposal in May of
21 2015 from United Way?

22 A. Yeah. Yes.

23 Q. Do you know who won this RFP process?

24 A. DigitalNet.

25 Q. All right. And I'm showing you Exhibit 630, another

1 email, and do you recognize that as an email from Mr. Alrai to
2 Jack Rotondi and Diane Dragoff?

3 A. I do.

4 Q. All right. About the website RFPs, correct?

5 A. Yes.

6 MR. DAVIS: All right. Your Honor, I move to admit
7 630 and strike the ID.

8 MR. HARRINGTON: No objection, your Honor.

9 THE COURT: Admitted.

10 (Government's Exhibit No. 630 received into evidence)

11 Q. And can you read just the first part of Mr. Alrai's
12 message there to Rotondi and Dragoff.

13 A. "Hello, Jack and Diane. Attached are the two responses
14 that I received to the website RFP. Please let me know if you
15 have any concerns with language or terms by close of business
16 tomorrow, Monday, 8/17, if possible. I have decided to move
17 forward with DigitalNet."

18 Q. That's enough. Thank you. So, who ran this RFP process?

19 A. So, in this particular instance there were four people
20 involved. Imran would lead. The client internal for this
21 would be our head of marketing, and so he had involvement or
22 someone from his team. And then Jack and Diane, which is why I
23 had said make sure they were involved.

24 Q. All right. So, in 2016 did United Way begin a due
25 diligence effort regarding DigitalNet?

1 A. Yes.

2 Q. And how did that come about, and can you explain that?

3 A. So, as I said, they were the second largest contract we
4 had. Small company. We didn't still have a lot of information
5 about them. And so, I asked Jack Rotondi, who was head of
6 operations and had the procurement function, to look into let's
7 do another review, because their contract, which the initial
8 contract with them was three years and it was over, so it was
9 time to relook, and then we wanted to make a decision about
10 should we go out to RFP again.

11 Q. All right. And what kind of information were you looking
12 for?

13 A. Very similar to what we were looking for in the beginning
14 of it, you know, their financial viability, who their customers
15 were, any references they could provide to us, had they
16 expanded their business, were there any major transactions that
17 had happened, have people left the organization. You know,
18 sort of viability from a business, ongoing business concern.

19 Q. All right. So, you actually asked for a customer list as
20 part of that?

21 A. Yes, we did.

22 Q. And were you aware of how difficult or easy it was to get
23 information about DigitalNet just by checking on the internet?

24 A. There was very little information about DigitalNet on the
25 internet.

1 Q. Okay. And so, why was this due diligence process
2 important to United Way?

3 A. As I said, because they were our second largest vendor.

4 Q. All right. And so, who did you go through to get the
5 information in the due diligence?

6 A. Jack and Diane, once again, led the due diligence process.
7 Azim Mazagonwalla also participated. He was from finance.

8 Q. And who was the person you would speak with about getting
9 information from DigitalNet?

10 A. I talked to Jack, and I also talked to Imran.

11 Q. To Imran Alrai?

12 A. Mm-hmm.

13 Q. Okay. Showing you Exhibit 645, do you recognize this as
14 an email from Mr. Alrai to Jack Rotondi copying you and Diane
15 Dragoff?

16 A. Yes.

17 Q. And is this related to the due diligence process in July
18 of 2016?

19 A. Yes.

20 MR. DAVIS: Your Honor, I move to admit 645 and strike
21 the ID.

22 MR. HARRINGTON: No objection, Judge.

23 THE COURT: Admitted.

24 (Government's Exhibit No. 645 received into evidence)

25 Q. Can we just scroll down. Okay. And we're on page 8745.

1 Can you see the list of to dos there that Jack Rotondi has
2 written to Mr. Alrai?

3 A. Yes.

4 Q. And can you just read that, please.

5 A. He says, "Imran, here are the to dos coming out of today's
6 conversation with Pat: 1. Imran advised DigitalNet that UWMB
7 has a new procurement policy in place for all large vendors
8 effective July 1, 2016. I'll be contacting the appropriate
9 person at DigitalNet to request: certification of financial
10 health, banking reference, total number of clients, sample
11 client list. 2. Imran to provide Jack with contact
12 information of appropriate person at DigitalNet. 3. Jack to
13 speak to that person and acquire the three items above. 4.
14 Simultaneous with the item 1 above Diane to perform literature
15 web search on DigitalNet to uncover any current highlights or
16 low lights. Diane, please contact me tomorrow on this. B.
17 Imran to provide Jack and Diane via email with the following
18 three things for each of the five POs: List of competitive
19 vendors, competitive pricing offered by those respective
20 vendors, why we chose the final vendor. Imran and Pat, do I
21 have this right? Any edits?"

22 Q. All right. And was that a good summary of what you were
23 trying to accomplish in the due diligence process?

24 A. It's pretty good.

25 Q. Okay. And did you eventually get sufficient information,

1 in your view, to move forward?

2 A. I got information sufficient to move forward. We did not
3 get -- it was pretty difficult to get some of the information,
4 but we got some.

5 Q. Okay.

6 A. And we did move forward.

7 Q. And did you stay in your relationship with Mr. Alrai --
8 I'm sorry -- with DigitalNet?

9 A. Yes, we did.

10 Q. All right. And showing you Exhibit 644 as part of that
11 process did he, as asked, summarize the results from the prior
12 RFP process?

13 A. Yes.

14 Q. All right. And do you recognize 644 as an email dated
15 July 19th of 2016 from Mr. Alrai to Jack Rotondi copying you
16 about the DigitalNet debrief and next steps?

17 A. Yes.

18 MR. DAVIS: And, your Honor, I move to admit that
19 exhibit and strike the ID.

20 MR. HARRINGTON: No objection, your Honor.

21 THE COURT: Admitted.

22 (Government's Exhibit No. 644 received into evidence)

23 Q. And here Mr. Alrai gives some numbers, correct?

24 A. Yes.

25 Q. And did he also describe the web development bid numbers

1 which included DigitalNet and Krish?

2 A. Yes.

3 Q. And does he also describe for IT services the bids from
4 Eze Castle and mindSHIFT and then DigitalNet showing DigitalNet
5 as the winner?

6 A. Yes.

7 Q. Okay. And then does he show for the VoIP internet
8 services comparative pricing with Verizon and EarthLink and
9 showing DigitalNet as the winner?

10 A. Yes.

11 Q. Okay. And at the end he says -- can you read his last
12 sentence?

13 A. "Pricing fluctuates depending on market trends and
14 services used. Our environment has grown and modernized since
15 2013. I believe DigitalNet's pricing is competitive."

16 Q. "All right. And showing you also Exhibit 118 in evidence
17 and just going to the attachments, can you see these are emails
18 between Mr. Alrai and Mr. Rotondi, going to the beginning of
19 that?

20 A. Yes.

21 Q. And I'm sorry. I said Mr. Alrai is copied, but it's
22 actually from Mac Chaudhary, correct?

23 A. Mac Chaudhary and Imran copying Jack.

24 Q. Okay. And this is all part of that effort to do due
25 diligence on DigitalNet?

1 A. Yes.

2 Q. And let's go to the second page of that attachment we just
3 saw. Do you see the customer list?

4 A. I do.

5 Q. And do you see the "Facts at a glance"?

6 A. I do.

7 Q. And so, after receiving this information United Way
8 continued to contract with DigitalNet?

9 A. Yes, we did.

10 MR. DAVIS: Your Honor, we're almost finished. I
11 would think about five more minutes, if that's good.

12 THE COURT: I'm not worried. We have five minutes
13 till the break, I think. Right, Charli?

14 THE CLERK: Correct.

15 THE COURT: Yeah.

16 MR. DAVIS: Good.

17 Q. Now, turning to 2018 -- let me ask one more question about
18 the RFP process or the due diligence process. Why were you
19 willing to accept less than perfect documentation about
20 DigitalNet in July of '16?

21 A. Well, one, because we had had experience working with
22 them, and so we assumed that -- and we were, in terms of the
23 services provided, happy with the infrastructure networking
24 support, and then, in addition -- so, we were sort of going
25 like, okay, this is a checkup, and even though they didn't

1 completely comply with everything we asked for we said, "Okay."
2 And we were in the process of building our new procurement
3 process for large vendors, and so we were hoping that -- this
4 was the first year, and we knew that it would have some
5 hiccups.

6 Q. All right. And then going forward you would have a better
7 process in place?

8 A. We would have a better handle on how to get Jack and Diane
9 more engaged.

10 Q. Okay. Now, going to 2018, which is the last year of
11 Mr. Alrai's employment, do you recall in May a situation where
12 the network was moved?

13 A. Yes, I do.

14 Q. And what notice was given to the company about the moving
15 of the network?

16 A. Like, less than 24 hours.

17 Q. All right. And who was doing that?

18 A. Mr. Alrai.

19 Q. And did you have a reaction to that?

20 A. I did. I was very unhappy that the notice was so short.

21 Q. All right. And how did you communicate that, and how did
22 he respond?

23 A. I communicated directly to him, I talked to him, that this
24 was an issue for me as well as for the rest of the company. As
25 I recall, what he said was that he had no control over the

1 process, that there had been a corporate action at the company,
2 and that they needed to move the environment.

3 Q. Needed to move the environment?

4 A. Mm-hmm. And so he was -- I believe that was the answer.

5 Q. Okay.

6 A. That's what he told me. Yeah.

7 Q. All right. Did you become aware of the whistleblower and
8 an investigation at United Way?

9 A. I was.

10 Q. And were you aware of the intention to suspend Mr. Alrai
11 on June 12th of 2018?

12 A. Yes, I was.

13 Q. What happened on that day?

14 A. Well, lots happened on that day. We brought in a new
15 vendor, who took over our environment. We made sure that the
16 current employees who were on staff did not have access to our
17 environment, including Mr. Alrai.

18 And then after the lawyers and some of our -- the
19 folks that we had hired to help us through this process went
20 through a number of things with Mr. Alrai, including with the
21 FBI, we ended up, myself and Jane Grady, who is our HR
22 Director, VP, we ended up terminating Mr. Alrai.

23 Q. All right. And did you and Jane Grady actually go in to
24 see him on June 12th?

25 A. Yes, we did.

1 Q. Sorry?

2 A. Yes.

3 Q. I think you said with the FBI. Just to be clear, FBI was
4 not --

5 A. No, they were not in the room. No, no. I'm saying there
6 was a lot happening that day. You asked me what was happening
7 the day.

8 Q. Right. Do you recall whether FBI was present in the
9 United Way on June 12th?

10 A. Outside of the United Way.

11 Q. Outside. Okay.

12 A. At the door.

13 Q. So, directing your attention to when you and Jane Grady
14 went in, what time of day was that approximately on --

15 A. The middle of the day, maybe early afternoon.

16 THE COURT: I need you to let him finish the
17 questions. The reporter is struggling a little bit.

18 A. Okay. Sorry.

19 Q. Okay. It was about the middle of the day?

20 A. (Nodding).

21 Q. And who is Jane Grady?

22 A. Jane Grady is our VP of HR, was VP.

23 Q. So, what happened when you went in?

24 A. We told Mr. Alrai that he was being terminated for cause.

25 Q. All right. And what was his mood and manner at that time?

1 A. His mood was a little bit surprise, it seemed. He asked
2 me why didn't I just ask him to explain what was going on and
3 that I knew that he would never do anything to harm the United
4 Way or me.

5 Q. He said that to you?

6 A. Absolutely.

7 Q. And did you say anything back to him?

8 A. No.

9 Q. Had he ever talked to you over the years of his employment
10 about his belief in the United Way?

11 A. Yes. We talked a lot about that.

12 Q. And what did Mr. Alrai tell you?

13 A. He told me that working for the United Way was very
14 consistent with his values and his religious principles, and
15 that he was happy to be a part of the United Way and thought
16 that the work that we did was important.

17 MR. DAVIS: Nothing further. Thank you.

18 THE COURT: Thank you.

19 I want to talk to the lawyers for a minute. We're
20 going to take the lunch break. I'd like you to come back for
21 cross-examination at 1:45.

22 THE WITNESS: Okay. Thank you.

23 THE COURT: Thank you.

24 Let me just ask you, Mr. Davis, I was going back
25 through your trial brief thinking I might have overlooked this.

1 I assume you're going to be presenting evidence at some point
2 regarding the actual evidence of the defendant's affiliation
3 with DigitalNet. As I looked at the trial brief, it says that
4 his father formed DigitalNet. It doesn't make any reference to
5 sort of IRS records or Massachusetts, Commonwealth records that
6 actually list him as an employee. Will there be any evidence
7 like that?

8 MR. DAVIS: So, your Honor, the corporate formation
9 documents just have Mac Chaudhary. They don't Imran Alrai on
10 them anywhere.

11 THE COURT: That's what the trial brief says, yeah.

12 MR. DAVIS: Right.

13 THE COURT: So, will there be any evidence that
14 actually documents his employment with DigitalNet?

15 MR. DAVIS: Not employment, no. The evidence of his
16 control is everything you're hearing and also the evidence from
17 his home office and all the things from DigitalNet that are on
18 his computer.

19 THE COURT: Okay. That third thing is interesting.
20 Yeah.

21 MR. DAVIS: The other thing that shows --

22 THE COURT: Everybody can speak here.

23 MR. DAVIS: The other thing, your Honor, is the bank
24 records. The bank records show his control of the money.

25 THE COURT: Yes. And how do they show his control of

1 the money?

2 MR. DAVIS: Well, they show that he's in some cases
3 writing checks, that money is going to AISA accounts, and that
4 he's spending it on all kinds of things.

5 THE COURT: Writings checks from his computer or
6 writing checks with a pen?

7 MR. DAVIS: Actually signing some checks.

8 THE COURT: All right.

9 MR. DAVIS: Lots of checks --

10 THE COURT: As Imran Alrai?

11 MR. DAVIS: As Imran Alrai.

12 THE COURT: I see. That's control, sure, or it
13 certainly is at least affiliation with DigitalNet. I'm just
14 wondering what that evidence is going to be in this case,
15 because you're saying it's everything I'm hearing. Everything
16 I'm hearing isn't all that clear, but I know there is a long
17 way to go. It's just that if I'm to assume your theory of the
18 case, well, he also took measures to conceal his affiliation
19 and control. So, what I'm hearing is what looks suspicious,
20 but eventually there's going to have to be proof here of his
21 affiliation and control. Certainly signing DigitalNet checks
22 is control.

23 MR. DAVIS: Right.

24 THE COURT: But you said something else a minute ago.

25 MR. DAVIS: I would add that the tax filings show that

1 DigitalNet costs and DigitalNet revenue were passed on to AISA
2 and then part of his personal tax filings every year, and there
3 will be evidence of that.

4 THE COURT: As you say here in the trial brief, he
5 formed AISA in 2012.

6 MR. DAVIS: Correct.

7 THE COURT: Okay. Thank you. If you want to say
8 anything about, that you're free to. I'm a little impatient.
9 I know I'm jumping ahead. I'm just trying to put it all
10 together. Is there anything you want to say about what I just
11 asked?

12 MR. HARRINGTON: No, thank you, Judge.

13 THE COURT: All right, everybody. I'll see you in an
14 hour.

15 THE CLERK: All rise.

16 (Lunch recess taken at 12:50 p.m.)

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C E R T I F I C A T E

I, Brenda K. Hancock, RMR, CRR and Official Court Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of *United States v. Imran Alrai*, 1:18-r-00192-JL.

Date: 4/12/20

/s/ Brenda K. Hancock
Brenda K. Hancock, RMR, CRR
Official Court Reporter